TEMPERANCE—
or PROHIBITION?

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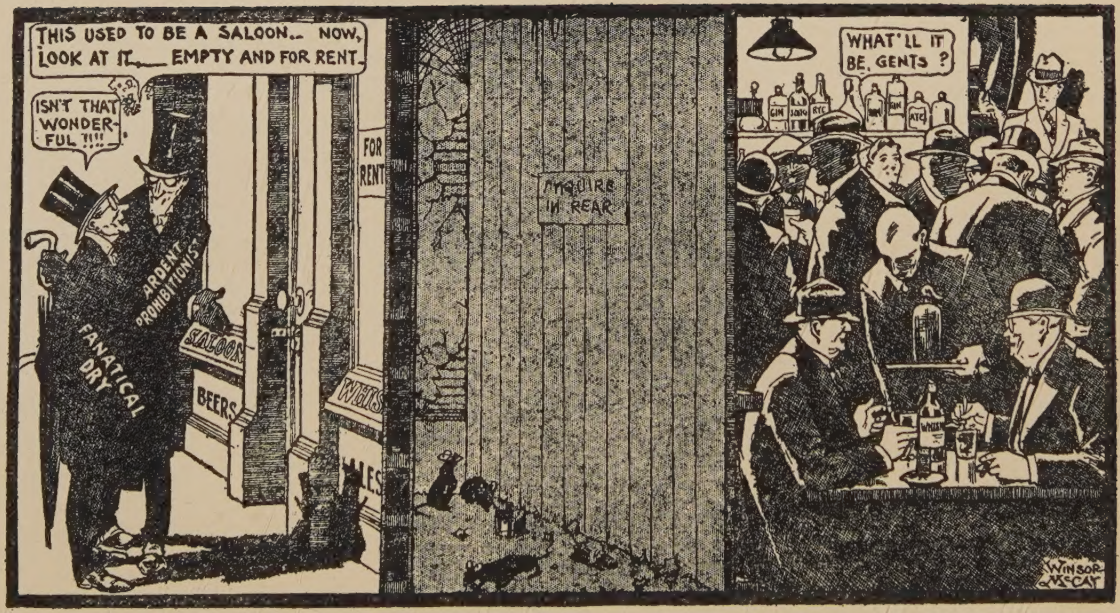
TEMPERANCE—
or PROHIBITION?

The best use of good laws is to teach men
to trample bad laws under their feet.

—WENDELL PHILLIPS.



EVER SEE A SPEAKEASY? HERE'S ONE

TEMPERANCE— *or* PROHIBITION?

THE HEARST TEMPERANCE
CONTEST COMMITTEE

FRANCIS J. TIETSORT, EDITOR

HV
5089
H4L
West

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NEW YORK
1929

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FIRST EDITION

TO ALL THOSE PATRIOTIC AMERICAN ORGANIZATIONS AND INDIVIDUAL CITIZENS WHO HAVE FOUGHT THE NEW BATTLES OF FREEDOM TO PRESERVE THAT FOR WHICH THE FOUNDATIONS OF THE NATION WERE LAID.

ACKNOWLEDGMENTS are made to Will West, to temperance contest editors of sixteen of the Hearst newspapers, to editors of various magazines and dailies, to publishers of various books quoted, also to Len Morgan and Kenneth Abercrombie Douglas, for invaluable aid in the compilation of the materials embodied in this volume. Copyrighted cartoons by Winsor McCay and F. Opper are reproduced by permission of the *New York American.*

A FOREWORD BY MR. HEARST*

PRESIDENT HOOVER'S ADDRESS on law enforcement at the Associated Press luncheon in New York was a shot in the air—a blank cartridge discharged against a blank wall.

Everybody knows that the laws ought to be enforced.

Everybody knows that the President ought to enforce the laws as far as comes within the obligation of his office.

Everybody knows that the laws ought to be respected; just as everybody knows that women ought to be respected, and that women are respected by every decent man.

But occasionally there is a woman who is not respected, who is not respectable, who does not respect herself, and whom no one in his heart can respect, no matter what outward observance of respect he may render.

And so, occasionally, there are laws which cannot be respected no matter how they are observed by good citizens.

And there are lawmakers who cannot be respected—such, for instance, as gentlemen who impose dry laws upon the land and carry whiskey flasks in their hip pockets.

Respect for law is a good thing when the laws and lawmakers are worthy of respect.

But if the American people had had respect for all laws, good or bad, there would have been no Boston Tea Party to protest against the invasion of the rights and liberties of our people; no Declaration of Independence to declare liberty and equality as the inalienable rights of man; no United States of America to establish liberty and equality as the foundation stones of republican government and in that sad

* [*Reprinted as an introduction, by permission of William Randolph Hearst, from his statement of April 26, 1929, in the Hearst newspapers, and on page xiv—reasons for being against prohibition—from a communication of Mr. Hearst to W. C. Durant.*]

case, no President Hoover, but only a certain Herbert Hoover, eminent engineer, and a loyal and law-respecting subject of His Majesty, King George V.

Of course, there should be respect for law in the abstract, but first there should be laws which deserve respect.

It is better to respect the fundamental American principles of liberty, equality and justice than it is to respect laws which infringe upon these inalienable rights of man.

Of course, there should be respect for the lawmakers; but how can lawmakers be respected who first take a drink and then pass a law imposing five years penal servitude and a $10,000 fine upon any citizen who takes a drink, and then go back and take another drink out of a bottle of whiskey which they have smuggled through the customs under their privilege as Congressmen?

Of course, law-enforcement machinery should be respected; but how can it be respected when the head of the machine tells the law-enforcement officers that the recent liquor law must not be enforced against all the community, but only against part of the community—must not be enforced in all cases, but only in some cases—and that the discretion for its enforcement lies in the hands of the law-enforcing officers.

How wide open this decision leaves the door to blackmail and bribery and corruption, when corruption is already rotting the social and political fabric of the NATION!

How this decision shatters the foundation stones of the REPUBLIC!

The cornerstone of liberty has already been reduced to dust.

And now another cornerstone—Equality before the Law—is crumbling before our eyes.

President Hoover said in the course of his speech at the Associated Press Luncheon:

"We have reason to pride ourselves on our institutions and the high moral instincts of the great majority of our people."

Then later on the President complains of—

"The possibility that respect for law as law is fading from the sensibilities of our people."

* * * * * * * *

There is nothing the matter with the institutions we have —or, rather, used to have. They embody the basic principle of liberty, equality and equity upon which rest the peace and happiness of mankind.

We *"pride ourselves upon our institutions,"* as the President truly says.

There is nothing the matter with them if we can only preserve them.

There is nothing the matter with our people. They are a great people and a good people, with *"high moral instincts,"* as President Hoover describes them.

If, therefore, there is, as President Hoover fears, *"the possibility that respect for law as law is fading from the sensibilities of our people,"* then there must inevitably be something the matter with the law.

If there is no sufficient respect for law when our institutions are sound and our people are good, then the inescapable conclusion is that our laws must be bad.

If there is *"the possibility that respect for law as law is fading from the sensibilities"* of our highly moral people, then it must be that the laws, or a considerable portion of them, are unworthy of respect by a highly moral people.

That is the unavoidable conclusion, and that conclusion makes the character of our laws the crucial question for the American people to consider.

* * * * * * * *

President Hoover's speech was a shot in the air—a blank cartridge fired at a blank target—because it avoided the crucial question of the cause of law infraction and concerned itself only with the superficials of law enforcement and of penalties for law infraction.

President Hoover forgot the old adage that "an ounce of prevention is worth a pound of cure," and that if an

ounce of prevention is worth a pound of cure, AN OUNCE OF PREVENTION IS WORTH TEN POUNDS OF PENALTIES WHICH DO NOT CURE.

President Hoover said:

"We have two immediate problems before us in government, to investigate our existing agencies of enforcement and to reorganize our system of enforcement."

He overlooked entirely the crucial question of reforming our LAWS and returning in our law construction and law enforcement to the fundamental American principles of liberty, equality and essential equity.

Surely, there is something the matter with the law when the law enforcement officers may decide in their discretion to whom it shall apply.

Surely, there is something the matter with the law when a Cossack crew of enforcement officers violate all popular rights and liberties and break into a man's house on a warrant obtained on perjured testimony, and beat him into insensibility, and shoot his wife to death as she sits at a telephone trying to get help for her husband.

* * * * * * * *

President Hoover complains of the small percentage of convictions of criminals under existing laws, and asks for severer penalties, apparently unconscious of the well-known fact that severe penalties, out of harmony with the sentiment of a community, always result in fewer convictions and greater encouragement of crime; because no criminal is deterred by a law if he is not afraid of conviction under the law.

President Hoover recognizes *"the vast sums that are poured into the hands of the criminal classes by the patronage of illicit liquor by otherwise responsible citizens."*

But he does not seem to realize that these vast sums have financed the underworld, and are chiefly to blame for the wide extension of crime and the effective organization of the criminal classes in all lines of criminal endeavor.

How great that extension of crime, and that organization

of criminal classes are, can best be told in the President's own words:

"Twenty times as many people in proportion to population are lawlessly killed in the United States as in Great Britain."

"At least fifty times as many robberies in proportion to population are committed in the United States as in Great Britain, and three times as many burglaries."

"Life and property are relatively more unsafe than in any other civilized country in the world."

In spite of all this, the President apologizes for the contaminating conditions under prohibition and declares that *"it is only a section of the invasion of lawlessness."*

* * * * * * * *

Can it be that the Jones law is in accord with the President's idea of proper legislative procedure—the Jones law, which is widely regarded as the most menacing piece of repressive legislation that has stained the statute books of this republic since the Alien and Sedition laws under John Adams, which permanently put the Federalist Party out of power and installed the Democratic-Republican Party under Jefferson to preserve the rights and liberties of American citizens?

The Jones Act calls for more vigorous and more vindictive enforcement of the sumptuary laws.

The Jones Act increases the penalties until the citizen who commits what can only be regarded as a misdemeanor is punished for a high crime.

The Jones Act adds persecution to prohibition, and in our principles of government substitutes fanaticism for freedom.

The Jones Act destroys the American ideals of liberty which have been our boast and our boon, and imposes upon our people the European idea of governmental tyranny which our Fathers came to this country to avert and avoid.

* * * * * * * *

Withal, the Jones Act will defeat its own narrow purposes, and, instead of creating a condition of rigid restriction, will cause—

First, fewer convictions because of over-severe penalties;

Second, more killings for fear of possible infliction of the severe penalties;

Third, more corruption to avoid arrests and possible convictions;

Fourth, higher prices for liquor on account of greater risks, and consequently greater profit in crime;

Fifth, more violence and more violation of popular rights;

Sixth, more conflict between the extremes of bonehead drys and bull-head wets, with more distress and discomfort to the moderate, temperate, peace-loving, liberty-loving mass of our citizenship;

Seventh, more cant and hypocrisy in public life, more insincerity among public men, and more disposition on the part of the public to consider the lawmakers of the land a lot of fools and frauds and fanatics.

All of which could be avoided if the party in power would remember that it was elected on the Republican ticket, and not on the Prohibition ticket, and that it could best serve its party and its country by restoring the principles of liberty and equality and justice for which our Fathers fought.

For be it remembered that our Fathers shed their blood, not for laws, but for principles.

* * * * * * * *

I am against prohibition for the same reasons that the Church Temperance Society of the Episcopal Church stated that they were opposed to prohibition:

Because it has set the cause of temperance back twenty years;

Because it has substituted an ineffective campaign of force for an effective campaign of education;

Because it has replaced comparatively uninjurious light wines and beers with the worst kind of hard liquor and bad liquor;

Because it has increased drinking not only among men, but has extended drinking to women and even to children;

Because the most nearly universal Christmas presents displayed in the shops, the department stores, the drug stores, and practically in every emporium are hip-flasks and cocktail-shakers.

I am opposed to prohibition because it has created more, and more skillful, and more highly remunerated and more dangerous criminals; because it has corrupted our forces of law-enforcement, and to a certain degree even our judges: because it has made pretenders and falsifiers out of so many of our public officials.

I am opposed to prohibition because it has instituted in the Government un-American methods of spying and sneaking and snooping and keyhole-peeping. And because prohibition fanatics, not content with that, are trying to have the Government go further and institute a secret police system, and a system of repression and oppression almost equal to that which wrought the ruin of the Russian Government.

What has become of our cherished American freedom of action, our boasted American personal liberty? All that we held dear in our political system, as well as our individual independence, has been sacrificed to a fetish. Any sacrifice might be justified to further a great cause; but prohibition has not furthered the cause. It has hindered the cause. It has created intolerable criminal conditions, and intolerable political conditions. And it has done nothing after ten years' trial to advance the cause of temperance, in which you and I are both sincerely and deeply interested.

Therefore, I think the time has come to call for another plan, a better plan, a more practical plan, which WILL advance the cause of temperance, and will not merely promote crime, discredit law, demoralize the citizenship, and prostitute the public service.

William Randolph Hearst.

THE GRAND PRIZE WINNING PLAN

[Subjoined is the Hoyt plan for temperance, which received the $25,000 capital award in the Hearst Temperance Contest, conducted from January to April, 1929, inclusive, by the Hearst newspapers. This book is based on the contest, the story of which is told in Chapter I. Other prize-winning plans will be found in Chapter XVI, as well as a comparative analysis and criticisms of the winning plans.]

By FRANKLIN CHASE HOYT,
Presiding Justice, Children's Court, New York City

THE object of this competition, as I understand it, is to offer a plan which will promote temperance and which will re-establish respect for the law in all sections of our country. In other words, to suggest a workable, honest and sensible substitute for the existing scheme of national prohibition as we know it today.

The limitations of this contest obviously prevent any discussion of the failures of the present system or of the conditions which now prevail throughout our land. Such discussion, however, is hardly necessary, since these facts are known to all. But, passing over the moralities (or immoralities) of the present situation and coming directly to the practical problems which must be faced before a change in our system can be effected, I believe that many thoughtful Americans, dry or wet, who have studied this problem will agree on these three propositions:

First, that the eighteenth amendment cannot be replaced for many years to come. It would appear impossible to secure the consent of 36 states to such action in the near future, and that impossibility becomes all the more apparent when it is considered that many opponents of prohibition in the wet and doubtful states would not tolerate a possible return to the conditions which prevailed in bygone days.

Second, that the proposal to permit the states at their

option to dispense liquor will never prove acceptable. The idea of a state becoming a partner in the sale or distribution of liquor would prove repugnant even to many who oppose prohibition.

Third, that a possible modification of the Volstead act as to the alcoholic content of beverages offers no real solution of the problem—a trivial increase would undoubtedly prove ineffective as an honest substitute for the present system, while a large increase presumably would be condemned by the courts as long as we have a federal statute prohibiting "alcoholic beverages" as such.

If the system is to be changed, such change must be based squarely and honestly upon sensible definitions and not upon unsatisfactory tinkerings with alcoholic percentages.

Assuming these three premises to be true, can any solution be found which will promote temperance and unite all sections of the country in support of the law? Can a better plan be proposed than that which prevails today? I, for one, believe so.

The eighteenth amendment prohibits "the manufacture, sale and transportation of intoxicating liquors for beverage purposes." Despite popular belief, it does not refer to "alcoholic beverages." What it says is "intoxicating liquor," and if these two words could be defined intelligently it would solve the whole problem.

I, therefore, submit this plan: Let congress repeal the Volstead act and substitute a law defining the words "intoxicating liquors" as "all alcoholic products of distillation." Let it ban the manufacture, sale and transportation of such products throughout the country, except for commercial and medicinal purposes, but at the same time let it permit each state to regulate and control the manufacture and sale of all malt, brewed and fermented beverages within its own borders.

The word "liquor" in the past was very generally applied to distilled spirits in contradistinction to fermented products and in common parlance, even at the adoption of the eight-

eenth amendment, the word "liquor" usually meant spirituous drinks, such as whiskey, gin, brandy, etc. Even today our dictionaries define "liquor" as an especial product of distillation and as one of a spirituous character, as distinguished from beer, wines, etc.

Would the Supreme Court acquiesce in this interpretation of the eighteenth amendment? Why not? It is scarcely believable, if congress should pass a law defining its interpretation of the constitutional amendment as suggested, that the Supreme Court would take it upon itself to nullify the will of the representatives of the people. It must be remembered that the ablest court decisions generally recognize and respect the necessity of interpreting the law in accordance with changing social ideas and conditions.

Even if the Supreme Court should finally condemn this proposed interpretation of the eighteenth amendment, thus requiring another constitutional amendment to put it into effect, such an amendment would at least be simple to understand and easy to act upon. The insertion of the word "distilled" before the words "intoxicating liquors" would settle the whole question. Surely such an amendment would be easier of passage than any complicated dispensation or the regulation of alcoholic content.

Space forbids any dissertation contrasting the products of distillation and fermentation. It suffices to say that distillation is the act of man and has been responsible for practically all the evils which "liquor" has inflicted upon the human race, while fermentation is the act of nature, and that to many must mean, in the most reverential sense, the act of God.

It is inconceivable that any government can carry on a successful war against nature and force unwilling communities to obey sumptuary laws which they reject and despise. Such laws, as Blackstone has pointed out, are "regulations destructive of liberty." If our federal government persists in denying any latitude to the states in their regulation of fermented products, the states in their turn may refuse, one

by one, to support the present illogical scheme of prohibition.

If, on the other hand, the federal government should confine its jurisdiction as suggested, what would be the result? I believe that every state and every decent citizen would loyally support our government in this respect. I believe that the prohibition question would disappear from national politics and that traffic in distilled liquor would eventually come to be regarded as shameful as that in drugs and narcotics. Finally, I believe that the cause of true temperance would be promoted and that, at least, there would be some end to the disillusionment, discouragement and disrespect for the law which today unfortunately are so widespread throughout our land.

NOTE.—*Franklin Chase Hoyt, Presiding Justice of the Children's Court of New York City, winner of the $25,000 first prize in the Hearst Temperance Contest, is one of the country's best known humanitarians and sociologists. He was instrumental in organizing the Children's Court in 1915 and was its first presiding justice.*

Justice Hoyt is a graduate of St. Paul's School, Columbia University and New York Law School. He was made a member of the New York Bar in 1898. Shortly thereafter he was appointed Assistant Corporation Counsel of New York City; later he served as Justice of the Court of Special Sessions.

Justice Hoyt was born in 1876, the son of William Sprague Chase and Janet Ralston Chase. His grandfather, Salmon P. Chase, was Secretary of the Treasury under President Lincoln and was Chief Justice of the United States Supreme Court from 1864 until his death in 1873. He was the presiding justice of the court which tried the impeachment case against President Johnson.

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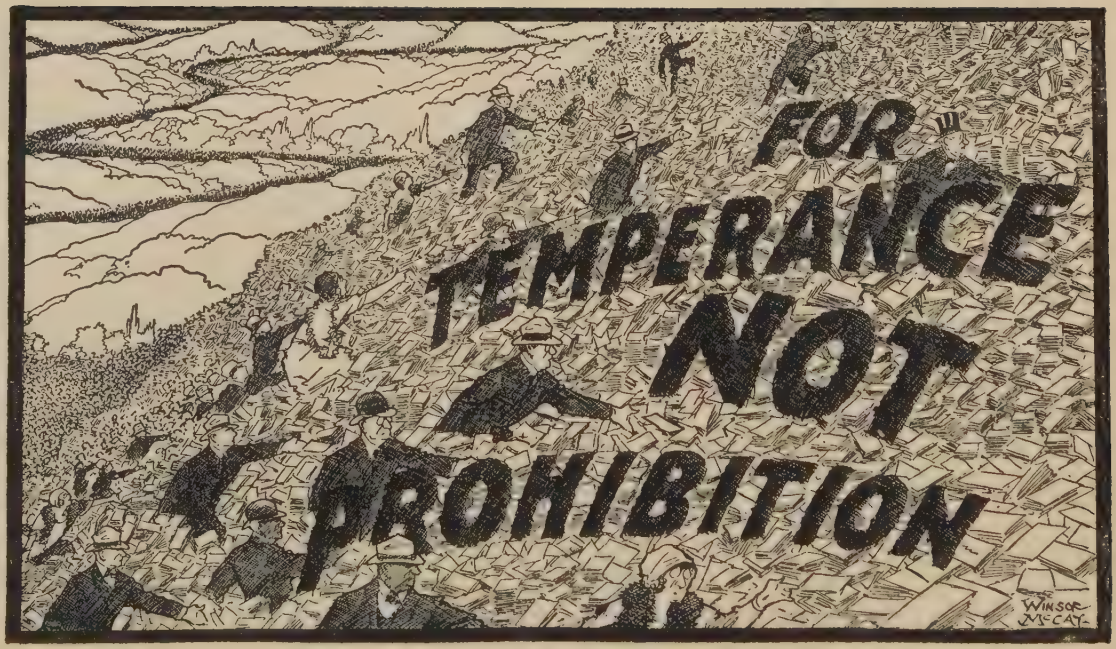


THE BIG PARADE

The Temperance Contest gave the nation the first opportunity to register its sentiment on Prohibition.

TEMPERANCE—*OR* PROHIBITION?

CHAPTER I

THE 100,000,000-WORD PROTEST

THE approaching end of the first decade of prohibition finds the entire United States, its voters, its national and State governments and even school children stirred by the tremendous issues which have been created.

The almost universal topic of conversation, North, East, South and West, has become, "What is going to be done about it?"

The testimony of educators and the parents of students regarding the drinking of poisonous bootleg liquor and its effects on the health and morals of the immature rising generation, is giving millions of thoughtful citizens pause.

The lawlessness of the nation under prohibition, admitted by all except those who cannot, or will not see, has finally been recognized publicly by the most eminent and skillful politicians and statesmen, even by those who supposedly have been supine heretofore in the face of the prohibition lobbies at national and State capitals.

The spectacle of Americans going abroad yearly in increasing numbers to expend three-quarters of a billion dollars in what the Department of Commerce calls "invisible exports," as they did in 1928, and due in large measure to prohibition, as any observant traveller can testify, is beginning to have its inevitable economic and moral effect. Many Americans have gone abroad to live.

Of more importance to those earnest and patriotic citizens who want to see the impossible prohibition situation ended in favor of a return to temperance and the sanity of training and educational measures, rather than a continu-

ance of the futility of coercion, is the comparatively recent revelation that prohibition has persisted because of the enormous profits in its train.

Politicians have been only too willing to let it be supposed that the power of prohibition organizations and paid "reformer" lobbyists was what was holding them willy-nilly in the prohibition camp. They are no longer able hypocritically to hide behind the skirts of these lobbyists with the political spoils that accrue, because the facts are becoming too well known. In the last presidential campaign, even Democratic speakers, who were opposing the election of Herbert Hoover, received from bootleg financial interests frank offers of bribes to advocate "strict enforcement of prohibition."

The whole country has been gradually awakening to the fact that the most sinister influences have resolved to save prohibition at all costs, no matter what these costs be in blood and tears and the ruination of health, morals and ideals. These influences have nought to do with the well-established and easily recognized professional dry lobby at Washington, except as they surreptitiously and by devious routes lend it aid and comfort through smugly respectable agents. They work mainly along direct and well-travelled political routes to keep "the boys" in line for prohibition, an industry that has grown to such herculean proportions and profits that it has to be "protected" and incubated as though it were a tariff baby.

It is on those supporting the political line of trenches that the guns of those who desire to save America from prohibition and make it once more free for democracy, must be trained. The most powerful defenders of prohibition are not the leaders of such organizations as the Anti-Saloon League and the W. C. T. U. and other well-meaning folk who fight on a "moral" no-man's-land to solve the temperance problem. If certain groups of the politicians abandoned their pretense of being dominated by the dry lobbyists at Washington, and if they followed their

secret convictions concerning what is really best for the nation, the prohibition era would soon be ended.

The real field marshals back of the Eighteenth Amendment today wireless their orders from headquarters in code —they represent the interests who are making the big money out of prohibition.

The growth of such convictions has brought a large percentage of the American people almost to the point of a Boston Tea Party and the preliminary Lexingtons and Bunker Hills of another revolution.

The man or woman who talks now about prohibition as though it were a question of the availability, price and quality of alcoholic beverages, is of course not yet prepared to absorb the kindergarten elementals of the subject. Those, too, who still refer to absolute prohibition as even a remotely possible method of bringing about the universally desired end of temperance, are proven by the overwhelming testimony of thoroughly informed experts not to be aware of the fundamental facts.

That the great mass of our countrymen want something done and done speedily about heading off bootleg opposition to temperance has now been fully demonstrated.

This has been brought about in large degree by the Hearst $25,000 Temperance Prize Contest, which intellectually was the most impressive competition of its kind ever held. It is the purpose of these pages to tell first the history and general results of that world-wide contest, and then to analyze it from the very words of those who participated in it, so that the sentiments of the mighty and the lowly, the rich and the poor, the "best minds" and even the comparative illiterates may be understood and be made a matter of permanent record.

This volume affords for students of the situation a valuable cross section of what millions of Americans are thinking and saying, not only regarding what they personally have observed, on the workings of the Eighteenth Amendment and its enforcement enactments, but on what they think

ought to be done to restore their beloved country to temperance and collateral conditions of common morality and decency.

Almost every conceivable aspect of the great subject has been covered to indicate what must be done to overthrow greed, fanaticism and bigotry, so that plain American horse-sense and fair play may again have their chance to function.

The prohibition problem naturally has two phases: the habit and the traffic. Unless both sides of the question are considered no worth-while conclusions can be drawn. It is not sufficient merely to assert that "the bootlegger is our country's greatest enemy", for the bootlegger, after all, only badly supplies a demand and that demand is age-old.

In considering any phase of the liquor problem, logic demands that the origin of the habit of consuming alcoholic beverages be investigated. Why do men drink? Are alcoholic beverages medicine or poison? Are all moderate drinkers to be classed with the intemperate—and at what point does moderate drinking come under the classification of drinking to excess?

Has prohibition curbed drunkenness? What is drunkenness? How prevalent is it? What is the difference between beverages that are malted and those that are fermented and those that are distilled? Are all distilled liquors enemies of human life and happiness? In brief, is the influence of alcoholic beverages benign or blighting? What is temperance? How can its blessings be restored to the American people?

These are a few of the questions upon which this book will seek to cast light.

To the extent that space permits there will be given a brief summary of prohibition history in the United States and in other countries. Careful analysis of the 71,248 theses submitted in the Hearst Temperance Contest indicates that indubitably the "average citizen" glibly discusses prohibition without sound basis for envisaging the problem as a whole.

For instance, he is inclined to confuse the Eighteenth Amendment and the Volstead Act, just as he confuses the

MR. HEARST AWARDS THE FIRST PRIZE TO JUSTICE HOYT

measures "alcohol by weight" and "alcohol by volume". His knowledge of the alcoholic contents of various intoxicants is rarely accurate. As often as not, he is of the belief that the man who takes a drink is violating the laws of his country.

Fortunately, however, among the army of Americans who participated in the Hearst Temperance Contest there were many thousands of men and women who were exceptionally well-equipped to discuss the problem in its larger aspects. In this book, therefore, endeavor has been made to present some of the more valuable conclusions reached by students of the situation. But it is believed that of almost equal value in presenting a well-rounded picture are the comments and suggestions made by the man on the street and by the housewife.

The files of the Temperance Contest Committee are rich with material contributed by people in all parts of the world. Never before, perhaps, has there been held such a gigantic symposium regarding a social problem. No assembly hall constructed, even in this day of marvels, is large enough to house the 71,248 participants in the contest.

Many of them have brilliantly distinguished themselves in the field of public service; others head institutions of higher learning, while thousands more have carved for themselves successful careers and are noted figures on the bench, in medicine, in art and literature, in the army and navy, and in the market place.

But, after all, it is the average citizen who is the backbone of our country. It is he who makes its laws, many of them good, and many of them bad. For that reason in this book are included extracts from plans contributed by those whose worldly success has been comparatively small. The merit of the plan, not the standing of its author, has been the determining factor of choice.

The clergyman, the lawyer, the author, and members of other professions are usually not merely articulate but have frequent opportunities to put their ideas and opinions be-

fore their fellow-countrymen. Only such an unusual convention as the Hearst Temperance Contest could give voice to those whose opinions had previously been heard only by neighbors on the most serious problem which has confronted this country since Civil War days.

Protests against the state of the nation under prohibition had been almost inarticulate, so far as the general American public was concerned, until January, 1929, when William Randolph Hearst, publisher, offered his capital prize of $25,000, and lesser prizes, for the best temperance formula to take the place of prohibition.

There had been a dozen organizations in the field for years against the Eighteenth Amendment or seeking modification of the prohibition laws, but the principles for which these bodies and their members stood had not yet solidified in the public consciousness.

Following the contest initiated by W. C. Durant, the automobile manufacturer, to determine the best way to enforce prohibition, Mr. Hearst made his announcement, and the response was instantaneous and all but overwhelming.

Mr. Hearst's desire was to procure a practicable plan, as a substitute for prohibition, which would be more easily possible of enforcement, and which would offer less encouragement to crime and tend less to debauch the public service, and which would not so outrage and violate the fundamental rights and personal liberties of American citizens.

Whether the great campaign waged for four months achieved the desired result in any one of the 71,248 plans submitted is debatable despite the choices of the distinguished board of judges. There have been countless opinions expressed on the subject, some of them sarcastically adverse, as was to be expected, and others weighing the results with more favor.

There is small doubt that the Temperance Contest brought out the greatest outpouring of thought on prohibition and did more to crystallize opinion than anything which has transpired since the Eighteenth Amendment was adopted.

Those of the Hearst papers which published daily the news of the contest were deluged with letters and with plans in a never-ceasing stream. These communications came from every State and Territory of the United States and from thirty-four foreign countries, since aliens were not debarred from competing. The press of the entire world announced the opening of the contest and recorded its superficial results at the conclusion.

The end of the contest came at midnight on April 30th and following the sitting of the judges the winners were announced on June 2nd.

The Grand Prize award of $25,000 went to Presiding Justice Franklin Chase Hoyt, of the Children's Court, New York City, grandson of the late Salmon P. Chase, who was Secretary of the Treasury under President Abraham Lincoln, and later Chief Justice of the Supreme Court of the United States.

Justice Hoyt, so far as is known, received the highest price ever paid for an original manuscript, $25 a word, or $25,000 for less than 1,000 words. He received his check just one week from the day when the judges reached their final decision.

The Second Prize, which carried an award of $5,000, was made to Brigadier-General Albert Clayton Dalton, United States Army, retired, of Washington, D. C., formerly president of the United States Shipping Board and Emergency Fleet Corporation, an Indian fighter in the eighties, who later was breveted for notable service in the Philippines, and also served in Cuba in the Spanish-American War. He received an award of the Distinguished Service Medal from Congress for his work in the World War. He was retired July 7, 1926.

The Third Prize, carrying an award of $2,000, was bestowed upon Captain Thomas W. Therkildsen, executive secretary of the Moderation League, New York City, which seeks the overthrow of prohibition by moral and educational means, but not by political pressure.

The Fourth Prize, $1,000, went to James B. Quinlan, Jr., of No. 1504 West Ramona boulevard, Alhambra, California, a successful young contractor and a graduate of Stanford University.

Among the entrants competing in the finals were some of the most distinguished figures in American public and professional life. The judges who made the awards did not know to whom they gave the prizes until they read the announcement in the Hearst newspapers of June 2nd. No plan considered for the four major awards bore any clue to the identity of its author.

The plans which survived in the final eliminations were set in type from the originals and bore merely their serial numbers. No employe of the Hearst publications was present with the judges when they made their final decisions. The judges were:

Representative James M. Beck, of Pennsylvania, formerly Solicitor-General of the United States, and known as one of the greatest constitutional lawyers in America.

Representative Florence P. Kahn, of California, widow of the late Julius Kahn, who was in Congress for twenty-five years.

Former United States Senator James A. Reed, of Missouri, famous lawyer and orator.

Monsignor John L. Belford, New York, distinguished churchman, progressive and civic leader, representing the Catholic faith.

Rear-Admiral Cary T. Grayson, of Washington, D. C., retired naval officer, eminent medical authority, physician to Presidents and president of the Gorgas Memorial Institute, Washington.

The Rev. Dr. Nathan Krass, one of the most noted and scholarly clerics of Judaism, pastor of the Temple Emanu-El, Fifth avenue, New York, representing the Jewish faith.

Archdeacon Joseph H. Dodshon, of the Protestant Episcopal faith, lecturer and president of the Church Temperance Society, long time student of prohibition.

JUDGES OF HEARST $25,000 TEMPERANCE PRIZE CONTEST

Left to right—Archdeacon Joseph H. Dodshon, Monsignor John L. Belford, Representative Florence P. Kahn, former U. S. Senator James A. Reed and the Rev. Dr. Nathan Krass. Standing—Cary T. Grayson, Rear Admiral U. S. N. Retired, and Representative James M. Beck.

A marked nationwide change in opinion and sentiment on prohibition was one of the striking results of analyses of the whole mass of Hearst Temperance plans received. The tide, unbiased observers agreed, had turned against the Eighteenth Amendment and the Volstead Act.

With the geographical diversification of the Hearst newspapers offering a nationwide cross-section, it was possible to analyze the sentiments of the nation as a whole. This analysis was made from a total of approximately 24,000 plans, or one-third of the total of the plans submitted.

Less than one-quarter of one per cent. of the contestants wanted prohibition retained "as is," or sustained by stricter enforcement. Approximately 30 per cent of the contestants were for light wines and beers only. The balance indicated a desire for the return of all forms of alcoholic beverages.

A general analysis of all the plans submitted in the contest disclosed some interesting figures. In the following tabulation are indicated the relative popularity of the most favored solutions:

Repeal of the 18th Amendment	23%
Amendment to the 18th Amendment	13%
Modification of the Volstead Act	18%
Referendum	9%
Government Manufacture of Liquor	33%
Private Manufacture of Liquor	27%
Government Manufacture of Hard Liquor Only	11%
Government Supervision of Private Manufacture	21%
Manufacture of Beer and Wine Only	14%
Government Dispensaries	43%
Government Control of Sale	91%

A fractional number suggested no treating; more rigid enforcement; educational campaign for temperance; and unlimited traffic in liquor.

On the subject of temperance as against prohibition the *New York American* alone, between early January and the first of June, published 192 news articles embodying 253 interviews with eminent men and women and occupying 308 columns of space, and comprising some 217,000 words. These articles dealt with the subject from every possible angle.

In the Hearst papers carrying news of the $25,000 Temperance Prize Contest and printing expressions of opinion from eminent men and women, there appeared a total of 3,264 news articles containing approximately 3,653,000 words. In disseminating this information, 200,000,000 copies were printed of the Hearst dailies.

The Durant capital prize of $25,000 for the best and most practicable plan to make the Eighteenth Amendment effective was won by Major Chester P. Mills, formerly prohibition administrator for New York City.

A $5,000 school prize was won by the Palo Alto (Cal.) Union High School, $4,000 of it going to the school and $1,000 to the author of the essay, Malcolm D. Almack, fifteen-year-old junior.

A country-wide discussion arose over the merits and demerits of the Mills plan to achieve actual prohibition, thousands of thinkers declaring that so far as obtaining actual prohibition was concerned the prize money was wasted.

Shortly after the Durant winners were made known, Mr. Hearst announced in a telegram to Mr. Durant's office on January 1 and through the Hearst newspapers his own $25,000 prize for the best substitute for prohibition calculated to bring about real temperance. The donor's expressed thought was to clarify the nation's best ideas on the entire subject.

The Hearst newspapers, as a result of the contest, had placed in their possession a priceless collection of material of tremendous value from a sociological standpoint, one hundred million words of it, as a conservative estimate,

or the equivalent of a library of twenty thousand volumes, each containing fifty thousand words.

Comparative facts regarding other notable contests may be of interest at this juncture.

Edward Bok, $100,000 Prize Peace Contest. Half of award February, 1924, to Charles Herbert Levermore, for best plan to achieve World Peace. Attracted 22,165 entries. Remainder of prize withheld pending approval of plan by U. S. Senate.

Edward Filene, merchant and publicist, of Boston, offered a $10,000 prize thereafter for best proposal to restore peace and prosperity in Europe through international cooperation. A total of 15,000 proposals were received from the four principal European nationalities, British, German, French and Italians competing. Won by Fernand Maurette, a Frenchman.

Shortly afterward another prize of $25,000 was offered in the interest of World Peace by the World Federation of Educational Associations through Rafael Herman, of Los Angeles.

Everybody's Magazine Liquor Question Contest of 1913, on the subject of temperance. In this contest 9,996 essays were entered to win 596 small prizes. A contestant in the Hearst Temperance Prize Contest mentioned that, with an essay of 13,000 words, he won a fourth prize of $25. The *Everybody's* contest lasted six months.

A recent outstanding contest was the Woodrow Wilson Foundation of 1926, which offered two capital prizes each of $25,000, with an additional prize of $5,000 for the third best essay on the life of Wilson. The contest drew a total of 9,500 essays, but none was adjudged worthy of a capital prize, and so ten prizes of $100 each were awarded. The expense of conducting that contest was $25,000.

Another recent competition which attracted many contestants and aroused much amusement was that sponsored by Delcedert King, of Quincy, Mass. In 1923, it occurred to Mr. King that he could best aid the dry cause by offer-

ing prizes for the phrase or word which was most denunciatory of the violators of the Volstead Act. The prize of $200 was given for the word "scofflaw," and was divided between Henry Irving Dale and Kate Butler. There were more than 20,000 contestants.

Both outright prohibitionists and those moderates believing in temperance rather than in attempts to enforce teetotalism, have resorted alike for supporting arguments to liquor consumption statistics and to the history of temperance reformation in all countries.

Research by the Hearst Temperance Prize Contest headquarters at New York, with comparisons of results achieved in various countries in seeking panaceas for intemperance, indicated that the thousands of contestants in the $25,000 competition constituted, through their contributions to the subject of temperance, an entirely new angle of attack on the problem.

The contest was the voice of the people direct, instead of the voice of legislators, political lobbyists and paid reformers. Through the centuries of efforts by law, education and propaganda to achieve temperance, there apparently never was anything in any country or time to compare with the popular outpouring of ideas by newspaper readers to bring about a substitute for prohibition.

A considerable percentage of letters accompanying the contest entries sent to the Hearst dailies declared that the contestant had little or no idea of winning the prize, but hoped his contribution might aid in some measure in solving America's pressing problem. And these contributors sent in a vast total of illuminating information.

Of interest to these millions of readers would be a careful perusal of two sets of treatises in the eleventh edition of the Encyclopaedia Britannica (1911) under the heading of "Temperance" and "Liquor Laws," and other treatises in the latest edition. Conservative articles set forth the entire background for the temperance movement and the prohibition experiments of all countries.

Historically these commentaries show that ever since man in some distant age first discovered the process of fermentation by which sugar is converted into alcohol and carbonic acid, and experienced the stimulating or exhilarating effects of the beverages thus produced, there has been a "temperance question."

But the evils never appear to have been so great or to have attracted such great attention in the ancient world as in the western world during our own era.

The ancients of the East used wines derived from grapes and other fruits, and beers from various grains. These same products were known and used by the ancient civilizations of Peru and Mexico in the West. In Roman times the barbaric northern nations of Europe employed fermented drinks such as mead, (made of honey), barley beer and apple cider, instead of wines.

These beverages produced intoxication if drunk to excess but their action was so much slower and less violent than those of distilled spirits that even heavy indulgence did not give rise to any concerted opposition. The British authority declares:

"Extremists now place all alcoholic drinks under the same ban, but fermented liquors (beers, ales and wines) are still generally held to be comparatively innocuous; nor can anyone deny that there is a difference. It is safe to say that if spirits had never been discovered, the history of the question (temperance) would have been entirely different.

"Potable spirits were not known until the thirteenth century. The distilled essence of wine (brandy) is mentioned then as the discovery of Arnoldus de Villa Nova, a chemist and physician, who regarded it from the chemical or medical point of view, as a divine product. It probably came into use very gradually, but once the art of distillation had been mastered, it was extended to other alcoholic substances in countries where wine was not grown."

In the train of cognac, variously aqua vitae, brandy, water of life and eau de vie, came spirits made from malt base,

used for beers, then gin or Geneva spirits, and whiskey, or usquebaugh (Irish for "water of life").

There developed corn brandy in the North and East of Europe, rum from sugar cane in the Indies, potato spirit made in Britain and elsewhere, and eventually as the process was perfected, rectified ethyl alcohol from almost anything containing sugar or starch.

Much queer alcohol is produced from the latter sources for villainous bootleg liquor under so-called prohibition in the United States today.

For centuries the concentrated forms of potable alcoholic drinks carried with them the prestige of a "divine essence." They were pure, honestly made, and were distilled in earthenware—not in metal. Also they were properly aged in wood.

The full force of a temperance or prohibition movement did not strike England until the last quarter of the Seventeenth Century. When the spirit bars of London put up signboards, as related by Smollett, inviting people to be "drunk for one penny" and "dead drunk for tuppence" with "straw for nothing" on which to sleep off the effects, the full significance of unlimited indulgence in spirits became apparent.

Other authorities trace the arrival of distillation of spirits into the American colonies, where with the indigenous materials at hand the hardy colonists made pure and honestly matured home brew, wines and whiskeys. They used crockery containers and a slow and natural process, aging their spirits for years in charred barrels to remove the chemical poisons such as fusel oil.

Modern writers of New England and of the South who have carefully studied the problem, and thousands of contributors in the Hearst Temperance Contest, have indicated their overwhelming sentiment for the legal return, under proper restrictions, of pure, light wines and pure, aged beers, government inspected as to process, maturity and materials.

They show that there is no sentiment, among discrimi-

nating consumers at least, for the return of the new copper-distilled, green, "rectified" and highly adulterated whiskey made smooth to the palate with glycerine, such as the former "whiskey trust" dispensed.

That kind of poison, frank liquor experts admit, such as was sold at big profit in pre-prohibition bars at ten cents a drink, was little better than the so-called whiskey sold by speakeasies and bootleggers today under the same old intriguing labels.

The pre-prohibition distillers and the experts who "doctored" their raw two and three-year-old product, distilled in copper containers, were the basic cause for prohibition in the United States.

Their greed poisoned and made wrecks of thousands of victims, these experts reveal. Twenty years before the "noble experiment" was put into effect, the last proud "gentleman distiller" of Kentucky had been bought out by the unscrupulous trust operators and was powerless to dispense longer his pure liquor, aged for a minimum of seven years in charred oaken barrels.

No corn or rye spirit which had not stood thus in wood for seven years was regarded by the gentleman distiller as fit for human consumption, medicinally or otherwise.

Those prohibitionists who through the years have been wont to protest against ordinary commercial whiskey, or "hard liquor," as made within the memory of this generation, have been therefore on solid ground, in voicing their objections to that sort of spirits for any purpose.

Even the federal government regulations of pre-war days permitted, under high-sounding technical terms, this villainous kind of "bottled-in-bond" liquor to be made and dispensed.

The only "test" for illicit whiskey today, of course, is whether the alcohol is poisonous.

Experts go further and declare that if in future the government ever legalizes dispensation of wines and beers, and freer distribution of whiskey for medical purposes under

some modification plan, in the search for a temperance solution, that these products should be under exacting restrictions as regards purity and age.

Improperly made and insufficiently aged "home-brew" and raw young wines of amateur origin may be and frequently are as injurious to the human system as any product of the bootlegger or of the "pre-war whiskey" doper.

Merely providing a natural alcohol content for such beverages is the smallest part of the art of their making. High skill with good materials, a knowledge of the essential chemistry involved and the mellowing and rectification of Father Time are the main requisites.

Ignorance or disregard of these vital facts is what is filling prisons, asylums and hospitals with the victims of prohibition plus the use by professional bootleggers of partly reclaimed industrial alcohol, poisoned by the government at the instance of fanatics in the forlorn hope it will help make prohibition effective.

The rapacity of the "Whiskey Ring" of pre-prohibition days, and what the old-time honest distillers of Kentucky thought of it—after it was too late—is graphically described in Irvin S. Cobb's tremendously interesting new novel, "Red Likker," just published by the Cosmopolitan Book Corporation, New York.

Mr. Cobb's book, one of the first novels devoted to prohibition, contains virtually the entire American background of the subject, from the days of pioneer penetration into the Kentucky wilderness down to the close of the World War and its aftermath of fanatic opportunism resulting in the Eighteenth Amendment. Every student of the subject should read Mr. Cobb's work, for the author says many things that have suffered lack of expression.

CHAPTER II

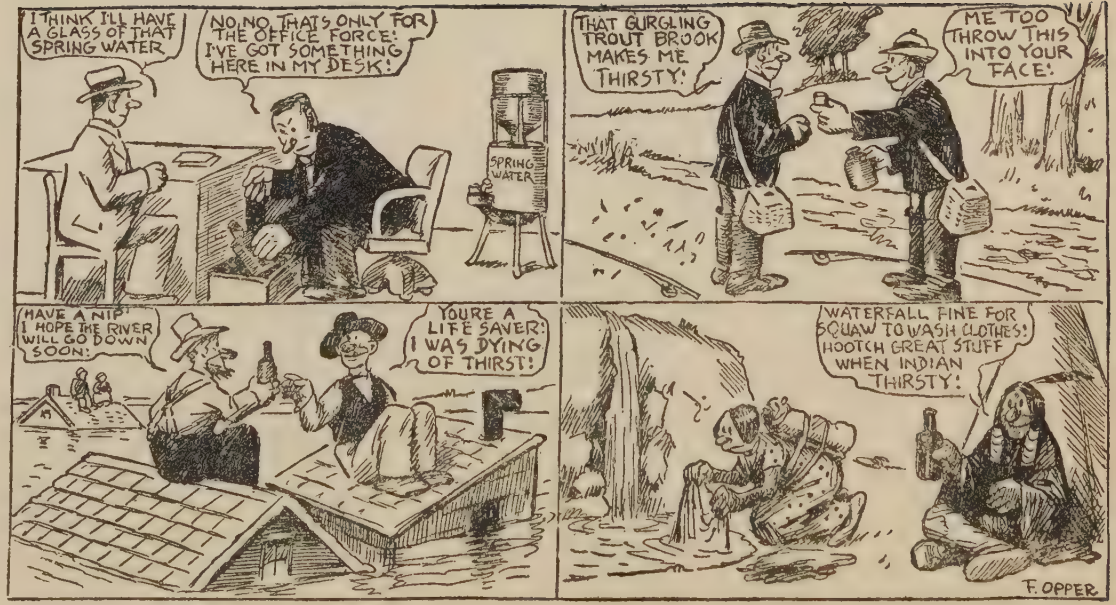
CHEMISTRY PHASES

THE Temperance Contest provoked a wealth of interesting comment concerning the chemistry of alcoholic beverages. The large group of chemical authorities who submitted plans in the contest were of the almost unanimous opinion that alcohol in limited quantities is a food, that it has high medicinal value and that the human body manufactures alcohol to aid digestion. But the difference between good alcohol and bad alcohol was repeatedly stressed.

It was evident from the contributions of the amateur as well as of the professional chemist that alcohol is decidedly easy to produce since no technical knowledge of chemistry is required—provided one is not over-particular respecting its purity.

There are few connoisseurs to be found among the millions of Americans who in the last decade have interested themselves in distillation. These uninformed "chemists" are, for the most part, conscienceless or careless or both. They have, often unwittingly, been playing with fire. Indeed, according to data submitted with a number of plans, some of the noxious products of the American still, as it exists today, are so potent as to be literally capable of dissolving metals.

The contestants generally agree that a great deal of the alcohol now being produced for beverage purposes is truly a "witches' broth"; it is being manufactured under indescribably filthy conditions. Much of it contains poisons in dangerous proportions. In many cases the effects of these poisons are cumulative. Their lethal qualities are not revealed for years, until it is too late to adopt curative measures.


I THINK I'LL HAVE A GLASS OF THAT SPRING WATER
NO, NO, THAT'S ONLY FOR THE OFFICE FORCE! I'VE GOT SOMETHING HERE IN MY DESK!
SPRING WATER
THAT GURGLING TROUT BROOK MAKES ME THIRSTY!
ME TOO THROW THIS INTO YOUR FACE!
HAVE A NIP! I HOPE THE RIVER WILL GO DOWN SOON!
YOU'RE A LIFE SAVER! I WAS DYING OF THIRST!
WATERFALL FINE FOR SQUAW TO WASH CLOTHES! HOOTCH GREAT STUFF WHEN INDIAN THIRSTY!
F. OPPER

IN A DRY AND THIRSTY LAND

Truly the distillers of today are producing strange and mysterious concoctions, as is illustrated by the observation of the American who was accosted by his friend:

"Hello, Sam. What are you drinking these days?"

"I often wonder," replied Sam, thoughtfully.

Harold W. Tinker, city chemist of Aurora, Ill., and an entrant in the contest, had this word of warning:

"Personally, liquor does not appeal to me, but my duties as Chemist of the City of Aurora, have demonstrated to me that ninety-five per cent of all the liquor I have examined contained poison. I cast my vote for the return of wines, beers, and liquors which will not cause blindness, insanity, degeneracy or death."

In hearty agreement with Mr. Tinker was H. J. Cole, chemist for the General Electric Co., Troy, N. Y., who contributed some interesting notes on the practices of the amateur distiller. Mr. Cole said:

"Let us consider the man that makes alcohol for his own use. He distills it from mash after several days' fermentation. This man is usually unaware that he is meddling with a most mysterious branch of chemistry. Moreover the layman who is making his own alcohol will do almost anything that will increase the alcoholic content of his mash, especially because he is ignorant of what is taking place during fermentation.

"For example, a short time ago a man told me that instead of throwing the leavings from his table into the garbage can, he now puts them in his mash and thus procures an extra pint of alcohol. Another man told me that he finds that banana peel will increase the alcohol in the mash. Still another said that by putting eggshells in the mash, it is only necessary to let that mash stand three days, whereas, without the eggshells in the mash, it must stand ten days.

"Heaven alone knows what is being formed in some of these mashes! What is probably taking place is that unstable organic acids are formed, thus dissolving the metal, for I have made an analysis of some of these alcohols and

have found an appreciable amount of copper, tin, lead, and zinc.

"We know that these metals accumulate in the system, thus dulling the nerves and slowing up mental responses. I know a place that makes and sells iodine by the barrel with the instructions to the customer to throw a shovelful of zinc into each barrel. After standing four or five days, the zinc settles to the bottom in the form of zinc iodate. The liquid on top is distilled for alcohol and the zinc iodate is returned to the manufacturer where it is converted into potassium iodate and sold to drug stores.

"I know a company that sells disinfectants to farmers with instructions to add a pound of caustic soda to a gallon of the disinfectant and then distill. The distillate is a gallon of alcohol.

"My point in bringing out the above is that unless something is done, and quickly, we will be a race of mental weaklings as a result of metal poisoning."

Another contestant, A. C. Sale, Indianapolis, Ind., quoted a former distiller as saying:

"Even in the days of scientific distilling we were unable to eliminate the poison from whiskey. When I think of some of the stuff people are now drinking I shudder. The stills and other paraphernalia captured are often maggoty and reeking with filth."

A. L. Conner, No. 511 Fourth Street, S.W., Washington, D. C., gave further light on conditions under which liquor is being made:

"I had the pleasure of seeing a raid one night in one of our large Western cities, where they were mixing gin in large quantities. This was in a large tenement house where plain dirt and varieties of filth were all around. This particular apartment had two rooms and I think about eighteen people, including women and children, slept in the place where the gin was being made.

"I asked one of the men who had been seized, if any of them had ever taken a bath in the tub in which the gin

was made and he replied that all of those in the room used the tub for bathing. Did this gin go to the corner speakeasy? It did not. It was sold at all the leading hotels by some of the bell hops."

From Guasti, Calif., center of a grape-growing district, Emil Chershi sent his warning to amateur distillers:

"The unskilled brewer, in following his dangerously blind method of manufacturing alcohol, produces a concoction which contains besides ethyl alcohol, amyl alcohol (fusel oil), butyl alcohol, propyl alcohol, and very often several other kinds of alcohols. All of these higher alcohols are very poisonous."

Arthur Suhm, Milwaukee, alluded to the results of an experiment conducted at Carnegie Institute with mice as the subjects:

"Twelve mice were given regular doses of whiskey. At the end of the test period they were healthy, strong and active. Twelve other mice were given only pure water as a beverage and were found to be sickly, weak and of sluggish disposition.

"Alcohol has innumerable good qualities and should be regarded as a heavenly gift."

To round out a story of mice and men, W. A. McGillivray, Rockport, Wash., described the effect of mice on alcohol:

"I know a moonshiner who mixed up about 600 gallons of mash in a tank. He left it uncovered and was gone about a week. When he returned he found that a hundred or more mice had fallen in the tank and drowned. They were in different stages of decomposition, but he skimmed off the mice, distilled the liquor and sold every last drop of it.

"Another moonshiner left his tank uncovered and besides mice, he found a civet cat which had drowned. He skimmed off the mice, removed the cat, and distilled the mash. He sold every quart of the liquor. Some complained that the liquor had a peculiar taste and odor but the moonshiner explained that he had burned the mash!"

That there are not only cats and mice but gold in them thar' stills is evidenced by the recipe for corn liquor, contributed by G. F. Christian, Roderfield, W. Va., which follows:

75 pounds of granulated sugar	$6.50
½ bushel of corn meal	.75
15 to 20 cans of tomatoes	3.40
25 pounds of raisins	3.50
1 can of malt hops in syrup	.65
5 packages of yeast	.50
Total	$15.30

He said this would make ten gallons of "mountain dew."

George E. Sleeper, Monterey, Calif., contributed a recipe for whiskey, which is the height of simplicity, and should prove a boon to the busy non-connoisseur who seeks immediate results:

"To make whiskey is as simple and easy as to brew coffee. It can be made in small or large quantities on any stove, large or small. One gallon of fermented soup will make a quart of liquor in ten minutes!"

More leisurely methods of manufacture are referred to by George W. Sissell, West Liberty, Ia., who is of the vast legion which questions whether prohibition can ever be enforced:

"—when you can put a pound of honey and a half-pound of raisins in a gallon jug of warm water, set it away for thirty days, and have a palatable intoxicant, a half-glass of which will make you as dizzy as dancing the old Dutch waltz in a hot room."

Carl E. Bastian, Dansville, N. Y., was equally doubtful that prohibition could ever be enforced, observing:

"As long as dandelions bloom, as long as fruit ripens, as long as grain grows, just so long will men drink."

S. M. Dugger, Banner Elk., N. C., quoted a moonshiner as having said:

"I can take a bushel of corn, one gallon of rye, two gallons of corn malt and make two and one-half gallons of pure rye whiskey worth $10 per gallon. I can add to this 100 pounds of sugar and make 16 gallons, worth $5 a gallon. I can put 100 pounds of sugar to the still slop of this run and add two gallons of corn malt and make 14 gallons, worth $4 per gallon. I can put 100 pounds of sugar to 50 pounds of pumice and turn out enough brandy to make a small army drunk; and it is nearly as good as pure brandy."

That brewing and distilling is not exclusively an adult occupation is evidenced by the information contributed by Harry Halef, government narcotic agent, No. 556 California Street, San Francisco, who wrote:

"In one of the Western cities in which I was operating recently, the police arrested five boys who were operating a still which had been fashioned from a five-gallon oil can. They were stealing fruit and sugar from the family kitchen and refuse from the garbage cans to make their mash.

"The oldest of these boys was less than twenty, and the youngest fourteen. Still the would-be reformers would have you believe that the coming generation will not know the taste of liquor. Why today there are thousands of boys who know more about the manufacture of liquor than men of sixty did ten years ago."

Another expression of the evils which prohibition has inflicted upon the younger generation, was contained in the entry of the Rev. J. Warren Albinson, rector of Christ Church, Pompton Lakes, N. J., who prefaced his plan by the following parable:

"Today no throat seems to be of too tender age to stand the searing bite of booze. This is best illustrated by the story of the nine-year-old, the six-year-old, and the three-year-old, who, while playing in an alley, came upon a straw-covered bottle.

"The nine-year-old picked it up and said, 'This looks like hooch.' The six-year-old took it from him, pulled the cork, and said, 'It smells like it.' The three-year-old snatched

it away, held it to his lips, gurgled, and with a look of disgust said, 'It is, but it's been CUT!'"

In New Hampshire, liquefied "canned heat" at ten cents a can is a favorite drink. In New York City visiting sailors partake of eau de quinine which is strained through a hollowed out loaf of bread. Other sections of the country lean to vanilla extract, Florida water, and similar health-giving beverages!

In the Middle West, spirits of nitre are purchased so that whenever the smugglers of Canadian liquor are delayed the wine cupboard may not be bare. California is perhaps more progressive in this respect than are other States. At any rate a contestant from that State advised:

"In many parts of the country today ether is used not only to 'spike' or 'needle' beer, but is also used for 'smelling parties.' At the latter, the addicts put ether on a handkerchief and pass it around and the 'sniffers' become intoxicated. The general symptoms of ether intoxication are the same as those noted in alcoholic intoxication."

Comparatively few people have accurate knowledge of the true effects which various kinds of alcohol have upon the human organism and this ignorance, in a great measure, is responsible for the abuse of alcohol. School children, therefore, should be honestly enlightened as to the benefits and evils of alcohol, according to Donald K. Adams, Middletown, Conn., who said in part:

"The utter nonsense taught to children about the action of alcohol on man, in courses of hygiene and physiology, has borne fruit in the fanaticism of prohibition. It will take a generation of scientific fact to undo this. Teachers and textbooks must be selected that will present the alcohol problem in a sane, factual light, describing the conditions under which the use of alcoholic beverages are beneficial and those under which they are harmful."

Americans have such diversified tastes that Louis A. Pieper, No. 903 South East Street, Jacksonville, Fla., offered the following suggestion:

"Since it is for the alcohol content that beverages are consumed, let us have pure grain alcohol (188 proof) and not concern ourselves with what the public wishes to mix with it to suit their tastes."

Let nature govern the alcoholic content of liquor, is the suggestion of G. A. Geigor, No. 93 Christopher Street, Montclair, N. J., who pointed out:

"When fermentation of grape juice or mash proceeds as far as a content of fourteen percent alcohol, nature again steps in and stops the process. Why not then take nature's cue and make this the basis of a temperance programme?"

C. W. Bennett, of the Douglaston Laboratories, Douglaston, L. I., made a suggestion that he believed would soon put the bootlegger out of business:

"Distilled spirits for beverage purposes should become available to the public on a competitive basis, at prices comparable to those of the present soft drinks. One should be able to purchase from the grocer a gallon of good whiskey or brandy at eighty cents, the customer to furnish the container."

According to B. Gati, No. 562 West 183rd Street, New York:

"Alcohol is the first discovered chemical compound which disinfects the human body without harm to the cells. Of course undiluted alcohol, is harmful; however, the solution in water is not injurious. Distillation destroys the structure of alcoholic solutions; therefore the distilled liquors are comparatively injurious."

The importance of alcohol as food was pointed out by Eugene Kuhne, biologist, of Cambridge, Md., who stated:

"Many foods contain substances that are converted into alcohol during digestion. Alcohol has a close chemical affinity with sugar. It is a fat sparer, a source of heat, and when moderately used can replace from fifteen percent to twenty percent of the total calories in the diet. Alcohol, in small quantities, is as necessary for maintaining life as are small amounts of salt."

Another exponent of the benefits of alcohol is Albert Lewis, No. 815 Euclid Avenue, Fort Meyers, Fla., who wrote:

"It is a truth of utmost importance that alcohols take the place of alkalies in organic chemistry. They are necessary to maintain healthful equilibrium, combining with organic acids, in vegetable life, to form all fruit flavors and essences. They form oils and fats (stored energy) called etherial salts."

Dr. John Ballage, pathologist of the Homestead (Pa.) Hospital, asserted that little is known about alcohol even by scientists. He went on to say:

"In spite of its being such a common article, it is strange how little is known about alcohol. Prepared and consumed for thousands of years by rich and poor, with scientists knowing the exact composition of it, its physiological effect is not clear. Is it a stimulant or narcotic? Is it food or condiment, a drug or poison? Anyone who tries to answer these questions with a single 'yes' or 'no' is a fool. That is why fanatical prohibitionists are fools."

Bruno Burri, No. 1974 Morris Avenue, New York, stated:

"Physicians of the highest standing agree that beer, ale and stout are the greatest known lactogogues for nursing mothers. Cushy, the great pharmacologist, said that, 'Alcohol is indeed a cerebral depressant which manifests itself in a condition of comfort and well being. Disease loses its greatest allies when alcohol allays anxiety and worry.'"

Victor J. Horst, Hawk Point, Mo., suggested that:

"Science can create for us our ideal, our perfect, our national beverage. Let America become the pioneer, the leader of the world in the creation of the finest, the most scientifically perfect beverage ever conceived."

George E. Sleeper, of California, previously quoted, offered a similar suggestion and patriotically proposed that the new drink be called "usa."

Ashberry Aiken, New York, sang the praises of wine and beer:

"Wine and beer cannot be considered alcoholic. They do not injure the human organism but affect it gently, bringing a natural stimulant and comfort against the worries of life. The effects of alcohol and of wine are totally different. It is true that wine contains alcohol, but it contains also lactic acid, a useful disinfectant; glycerine, good for the liver; phosphorus, excellent for the bones and the brain; tartrates, slightly laxative; and iron, of easy assimilation, indispensable to our blood. Beer contains proteins, phosphates, hops, etc."

R. C. Constant, New York, quoted authorities who favor the use of alcoholic beverages:

"Renowned scientists such as Gauthier, Atwater, Benedict and others claim that alcohol taken in certain quantities does no bodily harm, but is actually upbuilding. Mathier, an authority on the subject, says: 'Wine is in reality a plastic element through its mineral components, energy-giving through its alcohol and sugar, biological through its vitamins, a stimulant of all organic functions through its alcohol and ether, and antiseptic through its acidity.'

"The great Pasteur thought sufficiently of this question to write a book, *Etude sur le Vin*. In speaking about the art of making wine he says: 'Producers must learn the art of making wine, for wine is the healthiest of all beverages.' Armand Gauthier said, 'You wish to combat alcoholism? Encourage then, by all means, the consumption of wine.'"

A distingushed contestant was Dr. Raymond Dodge, Professor of Psychology, Yale University; Past President of the American Psychological Association; one time consulting psychologist Chemical Warfare Service; experimental psychologist of nutrition laboratory, Carnegie Institute; chairman of the Division of Anthropology and Psychology of the National Research Council; Lieutenant-Commander U. S. N., R. F.; member of the American Academy of Arts and Sciences; associate editor of various scientific publications, and author of numerous treatises, including (1915) "Psychological Effects of Alcohol."

Professor Dodge, among other important things, had this to say:

"The feeling of well-being consequent to the moderate use of alcohol is not intrinsically undesirable, provided it could be divorced from the toxic effects. The main scientific question, therefore, takes the form, is it possible to preserve the feeling of well-being or euphoria, which seems to be the main desideratum in the use of alcohol as beverages, without deleterious effects?

"From the scientific work of Dodge and Benedict, Miles and others, we know that 30 to 45 cc. of alcohol diluted with water to 150 and 225 cc. respectively, always acts as a neuro-muscular depressant, whenever any action at all is measurable by available techniques. That is to say, moderate doses of twenty percent of alcohol delay adaptive response and decrease its efficiency. Miles found analogous effects for 3.75 percent of alcohol."

Professor Dodge pointed out that no one has examined the *remote* effects of small doses with similar exactitude. It may be that the early neuro-muscular depression is followed under some conditions by increased efficiency. Indeed, he believes there are psychological grounds that make such results within the limits of possibility.

He suggested scientific research to reveal the remoter mental and physiological after-effects of small doses of highly diluted ethyl alcohol, and of the early and remote effects of familiar beverages of correspondingly low alcoholic content. He also proposes that there should be investigation of the possibility of chemical modification of the deleterious effects of alcohol without eliminating the euphoria. He wrote:

"If qualified investigators gave attention to the matter, it might be possible to discover a non-intoxicating substitute for alcohol in the productions of euphoria which would tend to eliminate the whole business of alcohol intemperance. The substitute might be a drug or a glandular secretion or something quite different.

"Considering the universal hunger for happiness and the place that alcoholic beverages have held in human society from very early time, it is almost incredible that their deleterious effects have challenged adaptive invention so little. To a future generation it may seem well nigh incredible that all we now do is to increase the toxic content."

Perhaps a chemist of No. 314 West Olive Street, Redlands, Cal., has found precisely what Dr. Dodge, who is recognized as an authority, has referred to in the preceding paragraphs.

A possible solution of the prohibition problem was offered by Dr. N. F. W. Hazeldine, the chemist in question, who has produced a new alcohol, which, while it stimulates as does ethyl alcohol, is non-intoxicating and leaves no bad after-effects, according to experiments with several hundred persons under Dr. Hazeldine's direction.

The new chemical, which is known as solol, is closely allied with ethyl alcohol, resembling it slightly in taste and odor, but lacking the fusel oil, which brings on intoxication and poisoning.

The liquid is the result of permitting solar rays to pass through fruit or vegetable juices, preventing ordinary fermentation. The rays pass through the liquid at a certain angle and in destroying the bacteria of fermentation, fusel oil, a poison, is eliminated.

Dr. Hazeldine prefaced his plan by saying:

"The solution of the prohibition question will most likely be found through chemistry. Stimulants are a dietetic necessity to the lives of most people, and some of the world's greatest men and women have been drinkers of intoxicants; but stimulants are one thing and intoxicants are quite another.

"The empirical formula of ethyl alcohol is C_2H_5OH. This is the chemical formula for the only beverage alcohol known to science today, which is in a certain sense an irritating poison. The fusel contents of ethyl alcohol are the intoxicants—they are the result of the refermenting of the

excreta of the specific bacteria of fermentation during the process of ordinary fermentation.

"The reduction of sugars and starches to alcohol must be brought about by other chemical means than fermentation if we desire a non-intoxicating stimulant—or there must be found some chemical agent that will prevent the formation of the higher alcohols or fusel components during the process of fermentation—both of these things are commercially and chemically possible.

"Solar light or electrical ionification can both change the molecular ratios of the carbon and hydrogen, which naturally changes the formula of ethyl alcohol. Fruit and vegetable juices placed in contact with the solar rays, according to a recent experimentation in a Los Angeles laboratory, have produced formula of C2.7.H9.O, which of course cannot be diagrammed, and so far has not been accepted by the scientific world as a fact.

"Nevertheless, science acknowledges that concentrated light and high temperatures are destructive to bacterial life. If we concede this statement to be true—then the spirit produced by the action of the solar rays cannot be ethyl alcohol —for the reason that ethyl alcohol is the specific product of fermentation, while the spirituous product produced by the solar rays is not—for the reason that it is not the result of fermentation such as we know fermentation to be.

"The formula C2.7.H9.O has a burning, stimulating effect similar to ethyl alcohol—with the distinct difference that it is a sedative and not an intoxicant. Experimentation has proved that if the same quantities, of the same proof, of ethyl alcohol and the spirit product of the solar rays are given under similar conditions, the ethyl alcohol will produce typical intoxication all the way from violent intoxication to muscular impediment—while the solar spirit will but produce sleep with no after deleterious effects—such as follow in the case of ethyl alcohol intoxication.

"So far as is known, the solar spirit is absolutely harmless and is non-habit forming; the most it can mentally and

physiologically affect the human being is in the producing of sleep. The solar spirit is odorless and tasteless, except for a certain sweet odor and taste not found in ethyl alcohol. I submit that chemistry has thus solved the prohibition problem inasmuch as it has produced a stimulant but not an intoxicant."

Thousands of contestants made interesting comparisons of the spirituous liquors which were available to an older generation and the infamous concoctions of today. "Regular" drinkers, some of them more than 95 years of age, mentioned in the course of their essays the extraordinary good health which had been their fortune—calling to mind the story of the hard drinker boastful of his vigor at the age of 98, but whom the ardent dry warned, "It will get you yet!"

C. E. Smith, No. 25 Delmas Avenue, San Jose, California, wrote: "I was a small boy in the log-rolling time in Ohio where a jug of whiskey was sitting nearby for all to partake if they saw fit. And at home there was a bottle on the mantel, and in the garden was a bed of tansy, yet every person was on the job the next morning. That was the kind of whiskey that helped Grant win the war."

Another Californian, James L. Campbell of Venice, wrote of a long journey across the plains with his parents in a covered wagon. He recalled that in Illinois, the point of departure, whiskey sold for 25 cents a gallon retail. Arriving at Portland, Oregon, whiskey, he remembers, was selling at 25 cents a glass. That was in 1852.

Vance R. Holcomb, Kennewick, Wash., referred to an incident which a majority of people would consider tragic, but which fanatical drys dismiss with a shrug of their shoulders and the remark that "whoever drinks poisoned alcohol has simply committed suicide." Young Holcomb wrote:

"I belong to the younger generation. My friends, in both the cities and small towns all drink. Two weeks ago a friend of mine was a guest at a party and had some guar-

anteed wine. It affected his eyes and poisoned him. The bootlegger had added to his profits by introducing a little wood-alcohol. In this town in which I live I know of no youth who does not drink, and I know all of them. Many of the girls drink just as much."

The data offered by Holcomb are to be contrasted with those submitted at the same time by Frederick Walder, Richtersvill, Switzerland. He described himself as a ninety-year-old wine drinker still as healthy and as spry as he was in his youth. From an American friend of his, Thomas H. Sant, president of an Ohio importing house, came the information that Mr. Walder is still active in the conduct of his farming and milling and withal manages to find time to read innumerable newspapers and to take a lively and intelligent interest in news topics.

Mr. Walder perhaps would have been astonished could he have read the explanatory letter which accompanied a plan received from the wife of a Johnstown, Pa., iron moulder:

"Good liquor used to cause my man to use his hands and beat me. Now bad liquor has caused him to use razors and guns. A twelve-year-old boy in our town supplies the high school. He makes such good beer that he sells it easily. I don't approve of whiskey, but as for beer, I wonder how many white-collar men have worked in the open hearth and other departments of steel mills and know what a glass of beer means to a played-out man."

An opinion regarding the comparative merits of pre-prohibition beer and the home-brew of today was incorporated in the plan of John Coakley of Shenandoah, Pa., who mentioned that he was a sixteen-year-old anthracite miner. Young Coakley wrote:

"Our population is about 21,000. Since prohibition it seems everyone drinks here. You can walk in the front door of any saloon in the town weekdays and Sundays and get all the liquor you want or you can buy it in dozens of private homes.

"I know plenty of men that make home-brew, but when they can get the good beer from the brewery they leave the home-brew alone. This proves that if they were able to get the good beer all of the time, they would not make home-brew."

A frequent visitor at the New York headquarters of the Temperance Contest Committee was Joseph A. Peden, who was born seventy years before the 16-year-old coal miner quoted in the preceding paragraphs. Mr. Peden, although 86, exhibits much of the fiery eloquence of his famous grand-uncle, Patrick Henry of Virginia. His plan, antithetically, was submitted at the same time as that which came from another resident of New York City, Edward Tenenbaum, seven-year-old son of Dr. Joseph Tenenbaum.

Mr. Peden's patriotic concern for the welfare of his country is appropriate. His grandfather, Joseph Peden, was a surveyor with George Washington before the Revolutionary War and served with his commander in the Revolution, acting as Washington's gun-maker. Mr. Peden has personally known many of our Presidents including Lincoln, Grant and Woodrow Wilson. Reference to him is made in this chapter because with so many other contestants he deeply deplored the fact that only liquor of vicious quality is available for the illnesses of persons of advanced years.

As to the quality of present day alcoholic beverages and of their effect upon the youths of the country's largest city, no one is better qualified to render judgment than Vincent Pisarro, superintendent of the Children's Society of New York City, which was founded in 1875 and which makes 30,000 investigations annually of cases involving minors. Mr. Pisarro brought to the attention of the Temperance Contest Committee such facts as the following:

"I do not believe one youth in a hundred drinks the vile whiskey and gin of today because he likes it or because it appeals to him. It is a habit forced upon boys and girls because of the accepted customs of the so-called prohibition era of the last ten years. It *is* 'smart to drink,' and the boy

or girl who does not do it is not popular socially, and is generally left out of social affairs.

"In the Children's Society we see the havoc of this sort of thing. The hip-pocket flask and the automobile, combined, are the greatest twin evils in New York City today. The old saloon in its rankest days could not compare with the menace of this present-day problem."

That by no means all employers of labor agree that prohibition has been a boon to industry was indicated by many plans containing data of the type included in the contribution of W. H. Lowery, of Los Angeles, an engineer who has had good opportunity to judge the effect of poisonous liquor. Mr. Lowery wrote:

"My difficulties in the labor question have been greater in the last ten years than in the ten years previous. Prohibition is the sole cause. The men resorted to drinking bootleg in their desire for liquor. This not only cut down their efficiency but in many cases caused serious illness, blindness, poisoning and insanity.

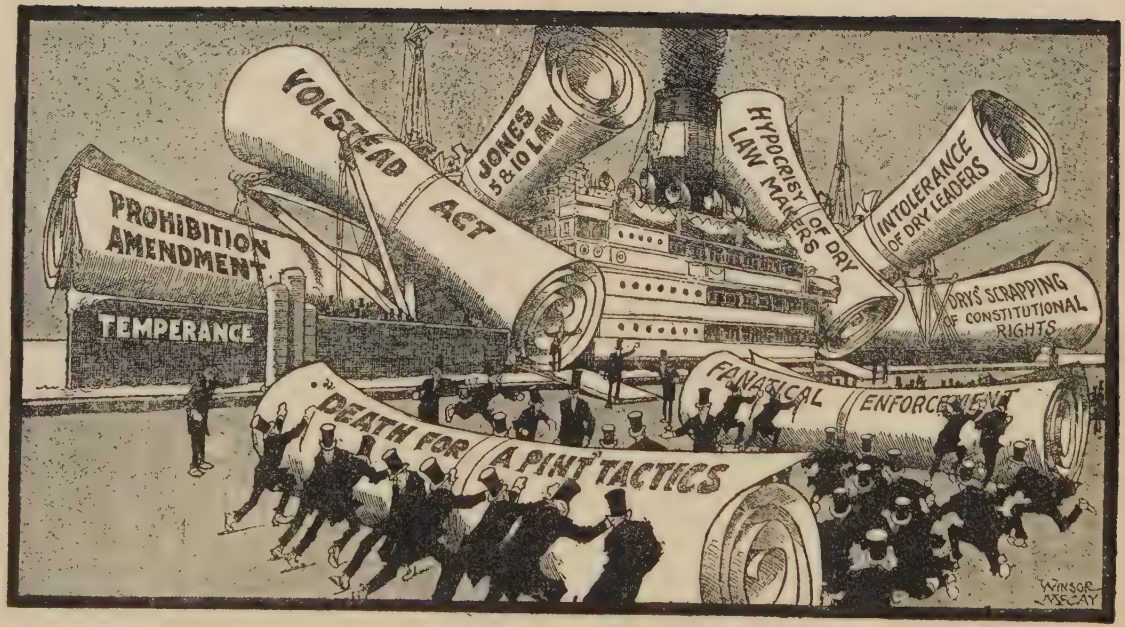
"Recently I had to discharge a laborer because he was becoming too blind from drinking poisonous liquor. His wife divorced him and he is now begging on the streets. Another case which seriously affected me was the insanity of my best friend and business associate from drinking a so-called wine tonic."

The quality of the present-day alcoholic beverages is easily explained when one considers some of the facts submitted to the Temperance Contest Committee by H. G. Sheldon, former State Director of Prohibition Enforcement for Rhode Island. In the course of a 10,000 word exposé of the evils of prohibition Mr. Sheldon wrote:

"The conditions under which most of the stuff is made are terrible. All kinds of materials go into it. Decayed fruit, rotten mash—anything which, with the sugar and yeast will ferment, is used. The improper utensils employed do their share in producing the worst of poisonous goods. . . . Where, in the old days the big percentage of the saloon's

output was beer, today the speakeasy puts out many times more imitation whiskey than the saloons did real whiskey.

"True the amount in smaller cities is not so great as in the old days, but the actual results are worse. The synthetic booze produces quicker drunkenness and more lasting ill effects."



THERE'S A LOAD LIMIT FOR EVERY SHIP

CHAPTER III

THE PULPIT SPEAKS

PRIESTS, rabbis, and clerics representing nearly every denomination, from Methodist to Universalist, from Baptist to Greek Orthodox, participated in the contest. Their plans were noteworthy for their frankness, for plain-speaking that in many instances was startling. Almost unanimous was their denunciation of the evils which have followed in the train of prohibition.

The refreshingly liberal views of the gentlemen of the cloth gave strong indication that the church's support of prohibition derives perhaps chiefly from the efforts of a small but vociferous minority. The pulpiteers who entered the Contest expressed an ardent desire to see the church divorce itself from politics and return to its original function of teaching the word of God.

There was a dissenter, however, among the churchmen who contributed. The lone voice crying in the wilderness was that of Dr. Clarence True Wilson, major-general of the Methodist Episcopal bone dry forces. Extracts from the plan which he submitted appear in this chapter.

But Secretary Wilson's paeans of praise for the Eighteenth Amendment and all its works were drowned out by a tremendous chorus of clergymen with more liberal views. Incidentally, many of them are members of his own church.

Almost invariably they pressed the point that prohibition has had a devastating reaction upon the morals of the nation. Youth in general, they assert is straying from the paths of righteousness, while Christians of an older generation are absenting themselves from houses of worship where they

have been "nauseated by canting ranters," as one expressed it, who have presumed to commit the church politically to espousal of the extreme dry cause.

Temperance then was the keynote of plans submitted by divines. They saw in moderation the only solution to the existing chaos. They found nothing contrary to Biblical teachings in man's age-old desire for the stimulation of wine. They quoted at length from the Bible to prove their contention that prohibition itself is a form of intemperance.

They were unanimous in objecting to the return of the saloon but felt that the nation had leaped from the frying pan into the fire, for although it had slain the saloon it has given birth to three speakeasies for every former saloon.

Many clergymen contributors observed that they themselves with high hopes had worked for the adoption of the Eighteenth Amendment, feeling that it would be the means of emptying the prisons, promoting better home life and, indeed, effecting a spiritual renaissance. However, the contest made it evident that a great many clergymen now thoroughly disillusioned, have reluctantly come to a realization of "the baseless fabric of this vision."

In a plan of unusual interest The Very Rev. D. Wilmot Gateson, Dean of the Pro-Cathedral of The Nativity, and Chaplain of Lehigh University, said:

"The proper approach to the whole subject of the control of alcoholic beverages, and consequently its solution, is through the scientific method. This is pre-eminently a scientific age. . . . The Eighteenth Amendment, right or wrong, was not conceived in the scientific spirit. It was the child of fear, emotion, hope and good intention."

Dean Gateson's plan provides for an exhaustive research. It would have individual studies made by the nation's leading scientists, physicians, psychologists, sociologists, economists, eugenists, social workers, statisticians, industrialists, ethical and religious leaders, legal authorities, and statesmen. From their reports a joint recommendation would be drawn up.

This study would be supplemented with a popular referendum on the findings.

Of a very different type was the plan of Clarence True Wilson, A.B., B.D., LL.D., "a deacon at eighteen," as he sets forth in an autobiographical sketch, but better known as the general secretary of the Board of Temperance, Prohibition and Public Morals of the Methodist Episcopal Church. It is this Board, which, maintaining headquarters strategically located directly opposite the national Capitol, is alleged to devote itself to political lobbying. It is this Board, headed by its militant chief, Clarence True Wilson, which has repeatedly been charged with having set up a super-government dictating to a supine Congress.

The Rev. Dr. Wilson is author of "Things That Are To Be"; "Why Oregon is Going Dry"; "Prohibition Versus High License"; and many other works, including "Dry or Die"; and "The Pocket Encyclopedia of Temperance."

As his plan indicated, he is an apostle of things as they are. Witness his assertion: "In the upward trend of civilization by which evil has gone down and righteousness has gone up, there has been no enactment in the 1900 years of Christian civilization that has meant more for the protection of women, the safety of children, the building of homes, the establishment of character, the prevailment of sobriety than the best law of them all—the prohibition of the liquor traffic."

Space limitations permit only brief excerpts from Dr. Wilson's plan. They are here published because they are representative of the few contributions which ardent drys made to the contest. Yet that all of such contributors mistook vulgarity for strength of expression would be an unwarranted assumption.

"We are all living today under the protection of law. The foreign power does not molest us; the burglar and the midnight assassin are not attacking us, and even the speed fiend does not run over us, because of the protective power of law. What an ingrate I would be to enjoy this protection from the cradle to old age, and then, the first time that the

law interferes with some appetite or habit of mine, repudiate its right to govern me and society and show that I violate law with impunity.

"And yet, there are rich men who are encouraging their sons to go to the dance, and go around colleges and because they have more money than the average man in the street, carry in defiance of the law a gold hip-pocket flask. I wish Sam Jones were here to say, 'Watch out, Bud, that thing will explode some day and blow your brains out.'

"The lawless and most detrimental class we have today in human society is the illicit liquor seller—the 'scofflaw' he has been called. He ought to be called a skunk—that's the animal that dispenses strong liquor without a license.

"There is no bootlegger who is more of a hypocrite, more dangerous to society, more devoid of law-abiding patriotism than the man, woman or child who pays him money to violate the law for a selfish whim that it will be smart to get around the law.

"There is less violation of liquor laws in the United States today than there has been for 150 years. Does anybody think that a few bootleggers can make as many violations of law as 3,000 licensed saloons, every one violating law every hour, could do? If we want to achieve true temperance, we will not go back to that."

Dr. Wilson in his plan invoked the spirit of Sam Jones, old-time evangelist, and prayed for his return. Preacher Jones has gone to his reward, but his partner, who won equal fame as an evangelist, Anti-Saloon League orator, and dry worker extraordinary throughout the Southern states submitted a plan in the temperance contest. Sam Jones' partner was the Rev. Sam W. Small, now associate editor of the *Atlanta Constitution,* whose opinions on prohibition, as set forth in his plan, follow:

"After having spent thirty-five years as a popular evangelist and Anti-Saloon League lecturer, in advocacy of federal constitutional prohibition, and having closely observed the social, legal and political conditions that have supervened

from application of the policy since 1920, when the 18th Amendment became operative, my final conclusions are:

"First, that the form and terms of the 18th Amendment were overdrawn and the intents of it are impossible of legal and effectual attainment.

"Second, that, in the interest of a more productive temperance policy and more acceptable administration of laws in that behalf, the Congress should submit, and the people be permitted to ratify or refuse, a substitute amendment to the Constitution for the 18th Amendment now extant."

So that Sam Jones' associate Mr. Small by no means agrees with the Rev. Dr. Clarence True Wilson.

Because drys and anti-Prohibitionists disagree as to whether or not prohibition was "put over" on an unsuspecting citizenry it is interesting to note that in a signed article in the *New York World* of November 29, 1925, Mr. Small testified that he was one of the headline speakers in the campaign for the Eighteenth Amendment; that he made thousands of speeches in churches and before other assemblies; that he repeated everywhere the assurance that the object was to destroy the commercialized traffic; and that he and other speakers "strenuously combatted the charge that we sought to deny an individual citizen his right to have and drink what he pleased; we only denied that any man had an inalienable right to run a barroom and conduct a commercial manufactory of drunkards. Such was our main argument, and with it we won millions of voters to support the proposition of decommercializing the drink traffic."

The Rev. A. T. Bennett-Haines, of Trinity Church, Wall Street and Broadway, New York, submitted a plan which advocated adoption of a dispensary system coupled with local option. He interpolated certain observed facts which illuminated and underlay the provisions of his proposed measure:

"1. In Continental countries where the open café system obtains, the problem of drunkenness is not acute. This suggests that freedom of access in places of public resort is preferable to furtive and semi-secret drinking in places set

apart, to which the general public does not go save for that special purpose.

"2. In Great Britain every succeeding year marks an increase of sobriety and this without any prohibition. This is due largely to the spread of education and to improved housing and working conditions.

"3. In the West Indies, where there is very wide freedom, excessive drinking is rare and where it does occur may be usually traced to immigrants whose sane use of freedom has been at least temporarily deranged by the restrictions of the places where they formerly dwelt.

"4. In Canada, a fairly successful system of regulation has preserved that country from the evils which have attended the enforcement of prohibition in America."

In the plan of the Rev. Ira Freeman, pastor of the Lorenz Avenue Baptist Church, Pittsburgh, Pa., was the frank statement:

"The American people hate 'snoopers.' I may be an abnormal minister, but I had rather entertain a bottle of intoxicating liquor in my home than either a 'snooper' or a 'stool pigeon.'

. . . "It is hard for a minister to bring himself to the point of admitting that our prohibition law is a failure, but it is a huge, ghastly, costly failure. I hope the day will come when not a citizen of this country will touch a drop of intoxicating liquor, but I am fully persuaded that such a happy state of affairs will not be brought about by attempting to enforce the 18th Amendment. I shall not assemble arguments to prove that our prohibition law has failed to prohibit, for no proof is needed. The American people are drinking as they never drank before. 'Everybody's doing it now.' "

Dr. Arthur G. Larkey, Methodist Episcopal Church, Oshtemo, Mich., advocated the repeal of the Eighteenth Amendment and proposed to "allow the manufacture of spirituous liquors by privately owned stores which shall conform to standards fixed by a Bureau of License and Control and subject to such license fee as shall be fixed by federal, state

and municipal authorities . . . Allow no one to drink in stores or in public places except hotels or restaurants, and then only with meals."

How prohibition has deprived the American citizen of his liberty, was referred to by the Rev. J. Henry Reed, No. 1124 Charles Street, Wheeling, W. Va., who wrote:

"I am a minister of the gospel and absolutely against the return of the saloon system, but I am not against personal liberty. I have never yet been able to see any good in the present mode of enforcement. In my opinion prohibition of today is neither constitutional nor Christian.

"I hold no law, no just law, has been violated when a citizen has a little whiskey in his house, or takes a dram when he likes, and any law forbidding the same, runs counter to the Constitution of the United States.

"When a citizen is afraid to set out wine before his guests if they desire it, for fear of being arrested and charged with a felony, that citizen is no longer protected by the Constitution."

The attitude of the Rev. Carley W. Halsey, Madrona Presbyterian Church, Seattle, Wash., is cogently conveyed by the following excerpt from his plan:

"Let's face the facts about booze. After all the sentimental twaddle about the wickedness of drinking and the moral triumph of the Eighteenth Amendment has been written, read and thrown in the waste basket, two real vital facts remain: People want alcoholic beverages and are willing to pay for them."

With many other contestants the Rev. William Preston, Powell, Wyoming, emphasized the fact that drunkenness and overeating are equally reprehensible forms of gluttony, adding:

"Drunkenness is a problem entirely apart from the liquor problem. Drunkenness is a form of gluttony. Gluttony is the inordinate desire for eating and drinking. This inordinate desire has no connection with an abundant supply of pure food, and is neither destroyed nor controlled by prohibition.

Gluttony can be destroyed in the individual man. The normal individual is temperate, and the man with the abnormal desire can be restored to normal, but not by prohibition. The normal man is temperate midst abundant food and drink."

The Rev. Dr. Walt LeNoir Church, No. 3703 Colorado Street, Long Beach, Cal., deploring the evils which prohibition has thrust upon childhood, wrote:

"Even children frequent speakeasies—become drunkards, bootleggers, dope fiends and peddlers, criminals and maniacs.

"Contempt for law and order is boasted by dry officials. Good business loses millions which bad business wins. Americans will not submit to needless deprivation of natural rights.

"Super-religious good citizens insist that wine drinking (outside of religious communion) is 'positively sinful.' They make it harder to be a Christian than did either Christ or His apostles who openly approved and practised temperate use of wine—and that after the wedding guests had 'well drunken.'"

From the plan of the Rev. N. Rasmussen, Evangelical Lutheran pastor of Franklin Furnace, Ohio, come these two paragraphs:

"Advocates of Volsteadism promised that prohibition would bring about a veritable Paradise on earth, lower taxes, empty penitentiaries, etc. Let us relentlessly expose such dishonest promises.

"Since the chief strength of prohibition lies in its false religious teaching, it is absolutely necessary to throw the searchlight of God's truth upon the whole subject. The Bible condemns drunkenness, but not the moderate use of alcoholic drinks. Christ both made and drank wine. 'Let no man therefore judge you in meat or drink' (Col. ii. 16). 'Forbidding to marry and commanding to abstain from meat' are called 'doctrines of the devils' (Tim. iv. 1-3). These passages show that Volsteadism is not the doctrine of holy angels."

Prohibition came too soon for the American people, according to the Rev. Herbert E. Elkins, Belleville, N. Y.:

"The leaders of the 'dry' forces were themselves surprised that the 18th Amendment and the Volstead Act became law so soon and many of them still believe that it will take from fifty to a hundred years to make America truly dry.

"Why not submit the liquor question to the separate states? Raiding parties of federal sleuths eating and drinking with actresses and entertainers in order to obtain evidence of facts already known by most men in the areas affected are sights which do not encourage respect for law.

"More than ten per cent of the population of this country live within two hours of Times Square. Is it right or logical to suppose that millions of our citizens who believe in a liberal view of life will willingly submit to laws written and maintained by skilled politicians who boast of their power 'because now the amendment is in, it cannot be gotten out for there are enough dry States in the West and South to keep it there.' "

The Rev. J. S. Braren, Pastor of St. Mark's Evangelical Lutheran Church, No. 305 New York Avenue, Jamaica, L. I., offered an unusual suggestion. He would permit the prohibition evil to continue longer in order that the people might become thoroughly aroused and demand action from Congress. He wrote:

"Prohibition was not secured in a day; its repeal also will require laborious efforts. Whilst it may be well enough to focus public attention on Congress to such an extent as to fill vacancies with dependable men, it would be a serious blunder to carry the campaign into this body, there to engage in constant skirmishes with the entrenched prohibitionists, just to secure some relief from enforcement acts.

"Better far, to let the public smart under this yoke a while longer, that they will be eager to strike the telling blow at the right time. And that will be at the next presidential election."

The Rev. Matthew Romantein, pastor of the church of St. Anthony-on-the-Hudson, Rensselaer, N. Y., observed:

"The drink problem has always gone hand in hand with

distilled spirits, whilst a beer and wine drinking people is proverbially a sober one. It follows that any system that strictly controls the one, but freely allows the other, must promote temperance."

Rabbi Morris Litchenstein, No. 100 West Seventy-Second Street, New York, regards prohibition as fallacious for various reasons:

"Sooner or later our government will be compelled to realize that prohibition has failed in its purpose. More than that, it will have to take open cognizance of the fact that prohibition not only, contrary to its purpose, increased the drinking habit among our people, but is also creating new evils which were entirely foreign to this nation before its advent.

"The main brief which the advocates of prohibition present, relates the evils of drunkenness. But here lies the fallacy of prohibition, that in its zeal to curb abuse, that is, drunkenness, it also puts a stop, or seeks to put a stop, to all forms of drinking, even where the effects, according to authorities, are not at all harmful."

Man's desire to drink cannot be curbed by law. It is a desire which has character-building qualities, according to the Rev. Dr. N. E. Tinkham. Dr. Tinkham, a retired Methodist preacher, member of the Northwest Indiana Methodist Episcopal Conference, wrote:

"It is an established fact that man, whether civilized or savage, is born with certain propensities that reach out into his environment to find means for their gratification. Among those propensities is the one calling for some kind of stimulant; in which class we find intoxicating liquors. But when guarded by self-restraint these inborn propensities serve a legitimate purpose in man's life as a means of self discipline; for without this discipline no high standard of mental equipment and moral character can be attained. There can be no real training along the line of self restraint without the presence of those objectives that invite man's indulgence."

A campaign of education would bring about temperance, suggested the Rev. Rex Barnett, Chicago. He would:

"Organize a real campaign of education under a separate department. The sole duty of this department would be to show the people, by reason, not by force, that they should be temperate. Advertise in the newspapers and magazines, contrasting the degrading influence of liquor with the beauty, health and success of those who do not imbibe; give lectures and show pictures in the public schools, impressing the importance of temperance upon children. Create social disapproval and public condemnation of drinking in every way possible except by prohibiting it."

Educational leaflets should be handed to purchasers of liquor according to the Rev. Lucius R. Paige, Universalist, North Cambridge, Mass., who suggested:

"Each sale of liquor or alcoholic beverages shall be accompanied with literature, written in English, by scientific and moral authorities of unbiased opinions, which state plainly the physical and moral effects of alcohol."

The Rev. A. E. Huntington, Pastor of the Oak Hill Methodist Episcopal Church, Oak Hill, Ohio, proposed:

"An honest, thorough investigation, compilation and publication of facts and figures which would show the enormous amount of drugs and deadly concoctions now used as substitutes for good alcoholic beverages. This would prove to us that our logic is faulty, for instead of reducing the amount of poison actually consumed in the larger quantity of beer and light wines, formerly drunk, we have encouraged the use of a larger amount of deadly poison.

"Preachers and politicians have prescribed for the physician, conferences have taken on the semblance of political conventions, and political circles have become so corrupt that we question whom we may trust."

How America has lost prestige in foreign eyes was alluded to by the Rev. Christian Thomson, Newell, W. Va.:

"All civilized nations must look upon America, in its childish endeavor to continue this nuisance of enforcing prohibition on a free people, as a nation of morons, in independent reasoning power below the capacity of a ten-year-old."

"Prohibition has not been enforced during the last ten years," was the assertion made by the Rev. Alan Pressley Wilson, Chaplain-in-Chief of the United Spanish War Veterans, Baltimore, Md., who emphasized the fact that from an economic as well as a spiritual standpoint the law has proved a complete failure.

Prohibition will not bring about temperance in the opinion of the Rev. M. M. English, Hamilton, Mont., who says:

"The best attainable objective is voluntary total abstinence for those who so desire; moderation and temperance for the average drinker; strict legislative safeguards and restrictions for the few who are inclined to drink to excess.

"Under the old system of control, with all its defects, true temperance was gradually being achieved with legislative restrictions based on strong public opinion. Prohibition has not destroyed the saloon but has driven it underground outside the control of reasonable legislation."

Sacramental wine would be banned from religious ceremonies by Rabbi Samuel Haas, No. 2570 Clarendon Avenue, Huntington Park, Cal., who wrote:

"As a rabbi, I have had many opportunities to discuss the prohibition problem with Federal authorities as well as with the consumers of sacramental wine. It is my deep conviction that the allowance of wine for sacramental purposes is not only improper from a religious point of view, but detrimental from a moral standpoint. It tends to corrupt the ministers and religious feelings of the various worshippers. It stimulates insincerity, graft, and contempt of law in the hearts of public officials.

"It is useless to recount the evils of illicit liquors and poisonous alcohol. It destroys not only the morale of half our population, who were before prohibition law-abiding citizens, but it attacks the very roots of our national existence —our children! The loose morals of most of our adolescent school children result directly and indirectly from prohibition.

"Considering prohibition from every angle, individual and

national, temperance and intemperance, physical and spiritual, I am satisfied that in its present condition, it is a scandalous failure. It must be remedied."

The Rev. Harry Taylor, First Unitarian Church, Manchester, N. H., proposed a tapering-off process: "The Department of Temperance, with complete control of the manufacture and sale of intoxicating drinks, shall set a period of twenty-five years as a necessary time in which to train the people of these States in the aims and ideals of temperance. During that period it shall slowly discontinue the sale of spirits altogether and diminish the strength of wines and beers until they are practically non-intoxicating.

"The conscience of the people ten years ago did not insist that the liquor traffic should be abolished; it merely insisted that the time had come when it ought to be controlled. That is the extent to which the conscience of the people goes today, and that is why the administration of prohibition as a whole has been and is a failure. It has gone far enough, and beyond what reasonable people considered was necessary."

One of the planks in the plan of Dr. George T. Ashley, pastor of the First Unitarian Church, Seattle, Wash., was:

"The law should authorize and provide, under reasonable regulations, licenses or permits for the commercial manufacture, importation, transportation and sale of such beverages above described. These to be sold only in the original package or container and in no case to be drunk on the premises where sold, or in any other public place. It is social, public drinking that most promotes intemperance."

Dr. Ashley is a believer in the efficacy of local option.

The Rev. Dr. A. W. Sidders, St. John's Parish Church, Seattle, Wash., proposed a national referendum following an extensive campaign of education. "In this campaign help should be obtained from ministers. I put them first since they were responsible for inflicting this on our country. Get the support of Methodist and Baptist clergymen. There are plenty of them who are against prohibition. The public know the views of ministers of the Episcopal and Catholic faiths

and think them prejudiced. . . . This campaign must seek to destroy the idea prevailing that a person is almost immoral if he does not favor prohibition."

The Rev. Robert F. Mack, pastor of the Franklin Methodist Episcopal Church, South, Franklin, N. C., expounded a philosophy which is difficult to challenge. He wrote:

"In my seventeen years as a minister, I have never seen a single person whom the law has made good; but I have seen hundreds whom teaching has completely changed and made good citizens.

"When the laws of America try to force the American people to be moral, they become un-American and contrary to the teachings of God. His method is the teaching method and not force. He set up a standard and taught men to live up to His standard and so must America set a high standard of sobriety.

"The more laws, the more the public trusts to laws to take away temptations and the possibility of evil, and forgets that laws are the test of character and not the making of character. Character is the result of the process of teaching the individual; and not by the compelling powers of law.

"Any individual or country that trusts to laws to save them and lead them to a higher standard of sobriety and morality will always produce a lawless generation, sooner or later, which will destroy all laws and lead to chaos. This was true with Egypt, Babylon and Rome. Therefore, repeal the Eighteenth Amendment, and put on a campaign of education through the Federal and State governments."

The Rev. Father Stephen Brown, St. Mary of the Angels Home, Syosset, L. I., New York, would curb the urge for self-dramatization. He wrote:

"Our present legislation permits the use, with certain restrictions of alcoholic liquors for medicinal purposes. Change a few clauses of the law. Let each American be his own physician in this matter and prescribe for himself what he needs.

"As to the youth of both sexes, many of whom out of

sheer bravado sport flasks at convivial gatherings, there would no longer be any incentive to daring. The whole thing would be too prosaic. Liquor for medicinal purposes, and easily procured, would not longer have a romantic flavor. The glamor would be gone once gin and whiskey were placed in the same category with cathartics."

The plan of Duncan P. Cameron, pastor of the First Presbyterian Church, Cottage Grove, Ore., contained interesting introductory remarks:

"This writer recently made an investigation of a State prison and asked 210 men the reasons for their incarceration. Of this group 193 were either in prison directly or indirectly as a result of the present iniquitous prohibition scheme. A system foisted upon the American people by a minority of the Democracy during a time when we were subject to fits of hysteria.

"No one expects that we shall, nor indeed wants to go back to the old saloon days. Those who are calling loudest for a change are the strongest in their avowal that we want a better system than any in the past. Yet perhaps it is but fair to the saloons to say that they were not as dangerously deadly to the youth of the land as the existent scheme of things."

Mr. Cameron advocated the adoption of one of the Canadian liquor control systems.

In the course of the Temperance Contest representatives of the Hearst newspapers interviewed leading clergymen throughout the country. Although space does not permit quotation in extenso, the brief abstracts which are here appended give further indication of the liberal views held by the clergy at large and additional proof that many churchmen are still old-fashioned enough to believe that the preacher's place is in the pulpit, not in the political arena:

The Rt. Rev. Charles Fiske, Bishop of the Central New York Diocese of the Protestant Episcopal Church:

"The amendment is a mistake and the Volstead Act a failure. The enforcing of it is a farce and the whole present

situation a tragedy. I have read the resolution of the Church Temperance Society (asking adoption of moderate regulatory measures) and I feel they are taking the right stand in the matter."

Rabbi Morris S. Lazaron, member of the executive board of the Central Conference of American Rabbis, an author and playwright:

"All the forces of the country to which the present situation is abhorrent might well be co-ordinated. Existing organizations, such as the Association Against the Prohibition Amendment, the Moderation League, the Church Temperance Society, the Committee on Law Enforcement, the Constitutional Liberty League and similar groups—all those organizations which have been opposing the Volstead Law might come together in conference.

"There should be included the great chain of Hearst newspapers, now conducting a popular competition on the subject, and representatives of all other papers interested.

"Amend the law, and not only will the Constitution be maintained, but the intolerable conditions may more easily be remedied."

The Rev. James R. Cox, A.M., Ph.D., Rector of Old St. Patrick's, Pittsburgh:

"The Hearst newspapers are engaged in a campaign for temperance which, to my way of thinking, deserves the support of every right-thinking citizen. Prohibition was doomed to failure in the very inception of the idea.

"The Hearst organization is making a real, earnest and, I hope, successful effort to lead us out of this darkness and obscurity into the light of reasonableness and temperance. God speed the day, or prohibition will completely ruin us."

The Rev. Neal Dodd, Rector of the "Little Church Around the Corner," Hollywood, Calif.:

"If we could let the people have mild liquors, eliminate the huge profits now accruing to bootleggers through their sales of hard, poisonous liquors, and educate the people to temperance, we would have the solution of the present distress-

ing problem brought about through the Volstead Act and the Eighteenth amendment."

The Rev. Dr. J. T. Loeb, Rabbi of Olev Sholem Temple, Washington, D. C.:

"The present prohibition law has all but ruined the community morally. It has contaminated all classes. The old saloon at least did not invade the school and the home. So much cannot be said for the bootlegger.

"Some plan more effective than the present dry law must be devised. The Hearst publications deserve the highest commendation for their campaign for temperance instead of prohibition."

The Rev. Edward Wheelen, S. J., President St. Ignatius College, San Francisco:

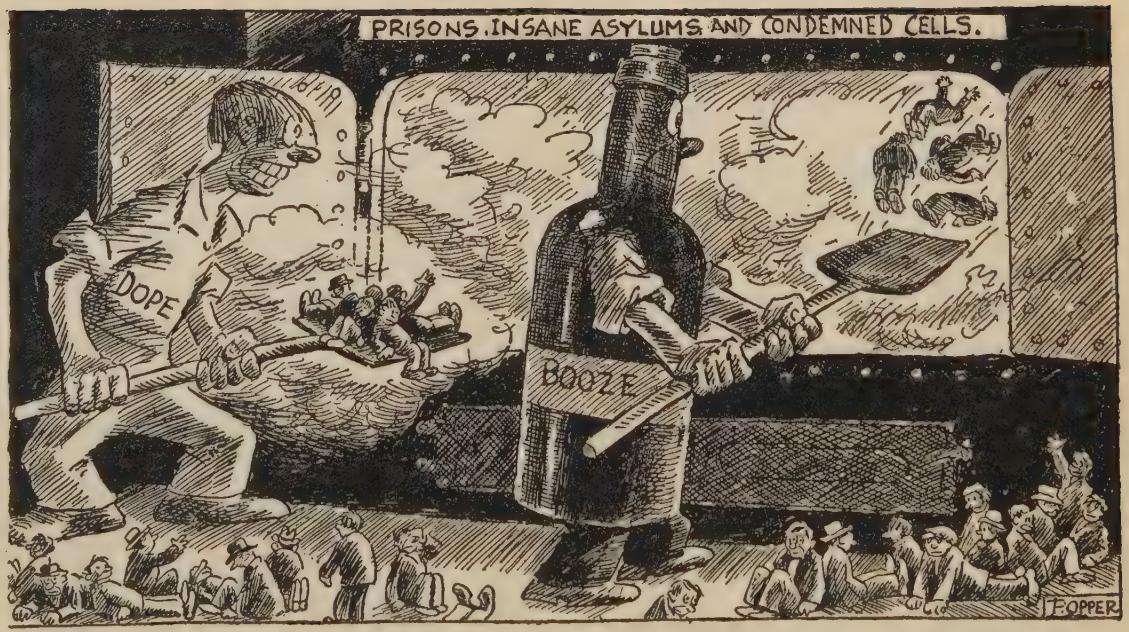
"The Legislature and the Government have been side-stepping this problem by refusing to admit its existence. But, whether or not they admit it, the problem remains. Therefore, it is with hearty approval that I view Mr. Hearst's effort to get the best minds in the country working to bring about a different situation."

The Rev. Dr. D. Witherspoon Dodge, pastor of the Central Congregational Church, Atlanta, Ga.:

"Prohibition has brought us fresh problems—those of the bootlegger, of governmental corruption and of the lawlessness of the respectable alongside of the increasing anarchy of the disrespectable. Just about the only problem prohibition has solved has been that of the legalized saloon."

The Rev. Thomas A. Egan, Professor of Sociology and Regent of the School of Law, Creighton University, Omaha, Neb.:

"The solution of the problem lies not in the passage of laws with not a shred of reason for their justification or a ghost of a chance for enforcement. The true remedy begins where the problem is rooted; in the character of the individual."



OUR NATIONAL "STOKERS"

"Glorious prohibition," as it was called, established the bootleg business on a solid foundation of bribery, organized crime and huge profits.

And after the bootleggers GOT all they wanted there was plenty left over for drug peddlers.

CHAPTER IV

MEDICAL ASPECTS

THE cry of bone-dry and uncompromising prohibitionists that alcoholic beverages are without exception health-destroyers, that they sow the seeds of every ailment and infirmity from hemiplegia to herpes zoster, was refuted by the many hundreds of physicians who participated in the contest.

The physician contributors saw themselves as guardians of the nation's health. Their plans, perhaps to a greater degree than those received from any other group, were characterized by an expressed or implied anxiety regarding the present situation.

They did not minimize the evils of over-indulgence in alcoholic beverages but, nevertheless, they were strongly of the opinion that inebriety is a medical problem, with but remote relation to law or morals. They looked upon alcohol as an ally which, if employed with wisdom, fortifies the body against disease and proves altogether invaluable in the treatment of many ills. More than a few physicians pointed out that the human race has been drinking alcoholic beverages for countless centuries and that no one can deny that the span of life has been steadily increased.

The physician competitors had no political axes to grind; furthermore they were disposed by the nature of their professional training to deal with facts in preference to theories. They strongly opposed the continuance of prohibition. They advocated immediate relief measures so that poisonous liquor may be forever outlawed and pure alcoholic beverages again made available to those whose physical condition demands it.

Time and again they pressed the point that for the first time in the history of the human race legislators, through the enactment of prohibition laws, have presumed to dictate to the medical profession in a manner dangerous to the physical well-being of the people.

And so, nearly every physician who submitted a plan expressed deep resentment at what he considered the legislator's unwarranted, illogical intrusion between physician and patient.

Henry Hurd Rusby, M.D., Dean of the College of Pharmacy of Columbia University, Past President of the American Pharmacal Association, professor of physiology and materia medica, in a preface to his plan said:

"An overwhelming majority of the citizens of the United States earnestly desire the elimination of alcoholic intemperance. Practically all of them are agreed that the saloon must be abolished. . . . As a result of present enforcement activities differences are rapidly developing into antagonism and hostility which threaten our national welfare."

Dean Rusby advocates federal dispensation of alcoholic beverages.

Dr. Perrin E. Long, of the Rockefeller Institute of Medical Research, New York City, introduced his plan with the statement:

"The popular theory that the Volstead Act could be changed to define scientifically the intoxicating content of beverages is based upon a fallacy. The great variation in individual susceptibility to alcohol makes this impossible."

Dr. Long advocated an immediate change placing the manufacture, sale and transportation and importation of alcoholic beverages under the control and direction of a semi-civic corporation enjoying a practical monopoly.

"The open sale of alcoholic beverages," he wrote, "will remove the peculiar psychological aspect of drinking illegally, which has developed since prohibition. Light wines and beer will come to be appreciated and the consumption of beverages containing a high percentage of alcohol will decrease.

In this manner the idea of temperance will arise in a group that has become intemperate as a result of total prohibition."

Dr. John Chadwick Oliver, Professor of Surgery, Ohio-Miami College, believes that the control of inebriety is the crux of the problem. He wrote:

"The people of the country can be divided very accurately into three classes, so far as their alcoholic desires are concerned; first, those who are total abstainers; second, those who use alcohol in moderation; third, those who habitually overindulge.

"It is quite evident that there is no need to regulate the first two classes. It is equally evident that the third class furnishes us with our problem. . . . The care of inebriates is a medical question. Therefore we must look to the medical profession for a remedy."

Dr. Samuel W. Lambert, of the New York Academy of Medicine, and known to the medical profession as one of the foremost diagnosticians in America, spoke with unquestioned authority during the Temperance Contest campaign, though not a contestant. He wrote:

"Alcohol is a sedative to reflex irritability; a dilator of the peripheral blood vessels, relieving strain on the heart muscle, and improving the circulation, though it is NOT a direct cardiac stimulant.

"It is also a depressant to the central nervous system, for it permits rest and sleep and relieves thereby the sense of discomfort and restlessness due to disease.

"It stimulates the secretions of the salivary glands and the gastric juice; it improves the action of the stomach and upper intestine, and thereby especially improves digestion.

"Alcohol is food ready for oxidation, that requires no further change to be available, although it cannot be stored up in the body for future use, as can other foods. Its caloric value as a food is high, ranking bulk for bulk second to fats. One gram of protein or carbohydrate is equivalent to four calories; one gram of alcohol to seven; and a gram of fat to nearly nine calories.

"An ounce of alcohol represents 217 calories, and the investigation of Mellanby shows that a healthy person can oxidize under the most favorable conditions of laboratory experiment some four ounces of alcohol a day without causing any symptoms of intoxication. This is equivalent to 868 calories.

"In practice, however, half of this, or about 425 calories, can easily be taken by a healthy man under the ordinary methods of eating. This will supply about one-fifth of the energy necessary to a man weighing 150 pounds.

"In the aged and in sufferers from chronic diseases, alcohol is an appetizer and helps to digest other food. In severe cases of those in the last stages of cancer, and the cachexias of other chronic ailments, which present in an exaggerated degree the condition of pathological physiology characteristic of old age, alcohol is often the only food which the diseased stomach can retain and absorb.

"Alcohol in the form of malted liquors, such as beer and stout, is a stimulating tonic and frequently is the least harmful of all soporifics for the neurasthenic and nervous patient.

"Fermented liquors form a most useful tonic and food in convalescence from prolonged infections and from severe surgical procedures.

"Alcohol, by its rapid absorption without the necessity of previous digestion, by its action to increase the amount of blood circulating in the capillaries of the skin, which have been dilated by its use, gives a feeling of distinct warmth and comfort to the aged. It reduces the tendency to brood over the inevitable accumulation of years beyond three score and ten. The individual feels less despondent, and is able to endure the lessened activities of the mind and the inertion of his aging tissues with a greater equanimity.

"Wines, in particular, contain other derivatives from the result of fermentation which can neither be quantitatively analyzed nor duplicated in synthetic manufacture.

"Alcohol and water is a disagreeable drink in any dilution. Whiskey or brandy mixed with water is quite the reverse

to most palates, and the wines are the most agreeable of all. The action of a well-flavored wine, which may contain anywhere from eight to fifteen per cent of alcohol, is felt by one partaking of it as soon as the beverage is taken into the mouth. Its agreeable aromas stimulate appetite and increase the secretion of the salivary glands. Its action on the stomach is similar.

"It causes an increased flow of blood to the stomach wall, and increased secretion of gastric juice, whether the previous secretion from the stomach was normal or lacking in the digestive ferment and a normal amount of hydrochloric acid.

"The taking of wine with a meal increases the desire for food and improves the nutrition. The wine itself requires no further digestion and is almost the only food product which will be absorbed from the stomach itself without further preparation or delay in its reaching the capillaries of the tissues."

Dr. Thomas E. Cooney is a staff member of two leading hospitals of New York City, St. Luke's and Lutheran. His opinion of the present lamentable situation is indicated by the following extracts from his plan:

"Gluttony is voluntary. Both inebriety and overeating are forms of gluttony. Overeating is perhaps the more dangerous of the twin vices. Yet shall we expend all of our sympathy upon the gourmand who daily gorges himself at Lucullian feasts, who knowingly eats his way into the grave? Or shall we save a tear or two for the gutter guzzler, for the longshoreman who in a drunken stupor rolls off the pier and is swept out to sea?

"Listening to the ardent prohibitionist who in intemperate language assails the cause of temperance, one is impelled to wonder 'upon what meat doth this our Cæsar feed?'—and what sort of Cannon fodder does the good Bishop fancy?

"It is frequently asserted that the late Wayne B. Wheeler and William Jennings Bryan were gourmandizers. Yet it has been such men that have felt the call to thrust upon the

American people the evils of prohibition. They could not, or would not, discipline themselves. They set for themselves the more interesting task of disciplining others.

"Is it illogical to suggest that Congress would do well to listen to the opinions of those whose researches have resulted in assembling reliable data concerning the effects of alcohol on the human system; for example, Dr. Samuel W. Lambert, Dr. Raymond Pearl of Johns Hopkins, Professor Raymond Dodge of Yale University?

"Congress with a few exceptions is made up of laymen, and laymen almost invariably, it has been found, have a most inaccurate knowledge of the effects of drinking intoxicating beverages. Is there, for example, one Congressman in twenty who can name more than two of the many varieties of alcohol?

"I can testify that in the A. E. F. hospitals the patients sought the aid of surgeons and nurses. To the best of my knowledge not one wounded soldier expressed a desire to have his case diagnosed by a Congressman or his medicine prescribed by the Supreme Court."

A friend of light wines and beer is Dr. J. Gibson Maupin, of No. 4 Rue Ventabour, Paris, France, who wrote:

"Light wines and malt liquors of approved grades are not scientifically objectionable. The unwholesome beverages are spirituous liquors which destroy health by attacking the nervous, circulatory and digestive systems. Mild alcoholic beverages, even imbibed in excess, are no more harmful than improper eating or over-exercise."

The return of beer would, in the opinion of Dr. Augustus Henry Jahn of Pittsburgh, Pa., bring about better actual temperance than the present laws. He wrote:

"Most physicians regard beer of not more than 2.75% alcohol by volume as a necessary tonic for the army of hard-working people. A beer of this character would not constitute an intoxicant, but would be beneficial, satisfying, practical. It would secure better actual temperance conditions."

Whiskey is a good horse to ride but it should not be per-

mitted to climb into the saddle. As Dr. John H. Petty, Jackson, Miss., wrote:

"Whiskey is not an enemy to man; rather, man is an enemy to whiskey. I am writing you as a man seventy-two years of age, who never drank whiskey but who has practised medicine for many years and knows the evils of inebriety."

Had temperance continued to be taught during the last ten years instead of prohibition, the nation would now be the most temperate in the world, in the opinion of Dr. John A. Harriss, formerly First Deputy Police Commissioner of New York City.

"Heretofore few drunkards were seen on the streets of large cities. The Gold Cure Institute, whose business it was to cure drunkenness, frequently complained of poor business and finally gave it up entirely for lack of patients. I say that if the pre-prohibition education had been continued, excessive drinking would have been eliminated, as physical culture and diet were fast taking hold of the country as a sport and hobby of both young and old."

Dr. Paul W. Eaton, No. 1803 Biltmore Street, Washington, D. C., quoted authorities in whose opinion limited amounts of alcohol are beneficial:

"A mistaken view of the prohibitionists is that alcohol is poison. Dr. Louis Pasteur, the best authority on such matters, said pure wine was the world's most healthful beverage. Dr. Adolph Lorenz, world-famous Vienna surgeon, said, 'Alcohol in medicinal quantities is the best thing for the system.' Lord Dawson of Penn, physician to King George V of England, recently emphasized similar opinions. Most medical authorities agree about this."

Lieutenant-Commander Erik G. Hakansson, stationed at the U. S. Naval Hospital, Pearl Harbor, Hawaii, advocated the appointment of a commission for the experimental study of temperance.

"The commission should be instructed to complete its work within a period of eight years. An annual report should

be submitted and this should include recommendations for such temporary or tentative measures to correct evils of the prohibition as the commission might have discovered. The final report should summarize the findings of all the work done and describe in detail the commission's plan to effect temperance.

"A wise selection of members will be most essential to the success of the commission. They should be men from the very aristocracy of scientists and law-makers, men whose ideals and devotion to the welfare of the country would keep them above all partisan influence. Would it not be practical and fitting to entrust this selection to the faculties of, let us say, three of the greater universities, one located in the East, one in the Middle West, and one in the far West, the selection to meet with the approval of the President of the United States?"

Dr. W. C. Shipley, Santa Rosa, California, thus philosophized:

"From the dawn of civilization, alcohol has been known and used. It has been one of the great eliminators of the unfit, but when rightly used it aids digestion, stimulates absorption and acts as a general tonic; it is one of the best and most useful medicinal agents used by mankind and should be one of the cheapest, for the poor man as well as the rich would have the benefits of its use, and there should be no unreasonable limitations placed upon its use in medicine, science or industry. Its misuse, like the misuse of many other perfectly good things utilized by man, should be laid at the door of man himself."

Dr. Charles T. Stout, New York, whose recently published book "The Eighteenth Amendment," has attracted much attention, submitted a plan. He said:

"No greater aid to national temperance could be suggested than to take away from alcohol the bugaboo of its injuriousness and to establish the fact that its proper use will promote health and prolong life, while its abuse will have the opposite effect. Americans are reasoning people.

"A scientific solution of the use, and control of the abuse, of alcohol has been hampered by ignorance. When the Eighteenth Amendment was adopted there were no reliable data on the subject. Life insurance statistics were worthless because of the quality of liquor in common use.

"Drunkenness comes from overindulgence in alcohol, but a temperate person may become intoxicated from one drink of bad whiskey. Other countries maintain the standard of alcoholic drinks through regulation. Little has been done in America to insure purity, or even regulation of beverage alcohol. On the other hand, little was known of the deleterious effect of substitutes for alcohol."

American prohibition was viewed through German eyes by Dr. Walter Neter, Dresden, Germany, who wrote:

"Are the social disadvantages of alcohol so great that the *magna charta liberatatum* has been nullified? Has that old English saying: 'My house is my castle' been rendered an empty phrase? Those who forbid alcohol today will, when they have the power, forbid tobacco and the day after meat and later something else. Trespassing upon individual freedom spreads itself like an oil stain."

The plan of Dr. Herbert L. Herschensohn, house physician of Marquette University Hospital, Milwaukee, contained a number of interesting proposals, including a classification of alcoholic beverages:

"Each person who desires to purchase alcoholic beverages must have attained the age of twenty-one and possess a Federal license renewable yearly. The fee shall be one day's average income but no less than five or more than twenty-five dollars per annum. On one side of the license is to be a serial number, name, address, and age of the licensee, with finger prints for rapid and positive identification similar to the method employed by the United States Postal Savings Department.

"The following limitations are arbitrarily suggested as being adequate for individual average daily needs. To exceed these limits would defeat temperance.

Class A. Alcohol content 40-50% (spirits and elixirs): 3 ounces.

Class B. Alcohol content 25-35% (strong wines): 6 ounces.

Class C. Alcohol content 7-15% (light wines): one pint.

Class D. Alcohol content 2-5% (malt liquors): four pints."

Dr. T. V. Hunter, Hollywood, Cal., wrote:

"There is no question, in my opinion, that the drink habit is making frightful inroads upon the health of the American nation. A high mortality rate has followed in its wake."

Indicative of the attitude of Dr. Garfield Howard, Gatliff, Ky., is the following excerpt from his plan:

"The law prohibiting murder does not prevent murder. Neither does the fear of a literal hell produce Christians. The prohibition law is the greatest enemy to temperance. In fact it prohibits nothing but temperance. It causes wholesale intemperance."

A National Temperance Week should be established in all schools, colleges and universities, for the purpose of teaching the effects of alcohol on the body, according to the plan of Dr. H. P. Jacobson, Los Angeles, Cal. He would

"Bring home to the American public the message of misery that is contained in the excessive indulgence of alcoholic drinks. This is to be accomplished by means of lectures, pictures, radios, school rooms, colleges, universities, academies, etc. Every educational institution in the country from elementary grades to the highest institutions of learning, should be required to include in its curriculum of National Temperance Week a substantial and systematic course of study of alcohol and its harmful effects upon the human body, and the resultant physical, and mental wrecks that overindulgence leaves in its wake."

Similarly, Dr. Bernard Gordon, No. 2508 Broadway, New York, suggested:

"Imitate nature if you want to be successful in coping with the evil. A process of evolution will bring about gradual development of abstinence. The human race has been using wine many thousands of years and its longevity is even greater than it used to be.

"Keep up systematic propaganda in public schools, but do not exaggerate the evils of alcohol and do not deny its usefulness in disease."

Unwarranted invasion of the rights of the profession and illegal examination of the personal records of patients are denounced, by Dr. Wilbur J. Murphy, No. 6627 Lindenhurst Avenue, Los Angeles, Cal., who said:

"No prohibition law or regulation should hamper or restrain the physician in active practice. He should be allowed to prescribe alcohol in any way and in any reasonable amount. To require the use of books and special forms is an invasion of his rights as a physician. No such requirements complicate prescribing opium, strychnine, or other drugs.

"A grave error in prohibition that calls for modification is the regulation that requires the physician to reveal his personal records of patients who have been examined under the prohibition rules. Their ailments are part of the prohibition memoranda. No lay prohibition agent should have the authority to inspect such records without consent of the individual examined."

Dr. M. A. Oginsky, director of the Pathological Department, Coney Island Hospital, New York, in his plan proposed a government monopoly of alcoholic beverages. He is an opponent of local option.

Dr. W. A. Dewey, Emeritus Professor of Materia Medica and Therapeutics, University of Michigan, similarly advocated government sale:

"Wines, liquors and beers should be retailed without profit. This would at once eliminate the bootlegger. The physician, the druggist, the grocer, and the speakeasy proprietor would have no interest in the liquor question."

Dr. George Edward Perkins, Boston, asserted:

"Before prohibition came into existence the thousands of saloons did less harm than the hundreds of thousands of bootleggers do today. There are more alcoholic mixtures consumed today in twenty-four hours than were consumed in twenty-four weeks before prohibition.

"There is little doubt that the most ardent supporters of the Eighteenth Amendment are the biggest drunkards in this country, because intemperance is not limited to the use of alcohol. Over-indulgence in food makes drunkards of more than 90 per cent of the people in this country. Does anyone think it possible to make a law to compel these people to stop eating certain kinds and amounts of food?"

The average person may be trusted with liquor and will prove himself to be temperate, according to Dr. Hamilton Forline, Los Angeles, Cal. He wrote:

"Alcohol in moderation is beneficial and the most harmless of all narcotics. Temperate men drink alcohol because it gives them a moment of relaxation and rest. To allow only beer and light wines would make the bootlegger's position stronger and more easily camouflaged and our position would not be improved in the slightest."

Dr. H. Lyons Hunt, president of the American Medical Authors' Association pointed out that:

"The undernourished should have alcoholic beverages prescribed for them in much greater quantities than physicians can now legally prescribe. Consider the convalescent patient who would recover his health by taking stout, malt-extract, ale, beer or wine, with each meal. The physician is the best one to judge."

A public health official's opinion is that of Dr. G. Wyckoff Cummins, Belvidere, N. J., who wrote:

"As county physician of Warren County, New Jersey, I came in frequent contact with those who have been poisoned or blinded by unethylated spirits in alleged whiskey and even killed by two drinks of it.

"I have treated those who had been driven to maniacal frenzy by as little as four ounces of the strong alcohol ob-

tained here. Observation of the effects of beer, wine and spirits abroad has shown me no such serious troubles as are seen here in America under (theoretical) control.

"As for me I do not drink but nevertheless I can appreciate the chagrin of a worker in an iron furnace, for example, who would like to have a harmless schooner of beer to slake a thirst that water alone will not satisfy, when he finds it denied to him."

Dr. Arthur C. Jacobson, editor of *The Medical Times,* New York, pointed out in entering his plan:

"The United States Public Health Service is charged by statute, under the Constitution, with the duty of 'public health education and dissemination of health information.' The organization's personnel consists of medical scientists of the highest type, thoroughly trained and experienced in all matters relating to the public health, and in active alliance with substantially all of the health and educational agencies in the country.

"Adequate and authoritative temperance education, which is, indisputably, legitimate health propaganda, merely awaits governmental appropriation greatly in excess of the present meager allotments. . . .

"As compared with the United States Public Health Service's educational system, the government bureaus caring for the physical welfare of cattle, sheep, pigs and horses, and for the enforcement of prohibition enforcement are very heavily financed. A humane hygiene is strictly enforced in the case of dumb creation, but prohibition enforcement postulates a people upon the same level as the country's cattle.

"The (proposed) plan meets adequately the imperative need and growing demand for an intelligent grappling with this deplorable problem, to the end that the goal of a temperate way of life may soon be achieved, and to the further end that grotesque and antisocial types of behaviorism, clumsily imposed upon the nation and vying with alcoholism itself in their horrors, shall cease to plague our people and to justify the doubts of the other nations of the world."

Dr. W. J. Butler, Naugatuck, Conn., asserted:

"The use of liquor can never be stamped out, for as far back as history dates it has been used. Prohibition or abstinence is like religion, in that each one will practice it to the extent which he believes. Some, to be sure, overstep the limits, while others are so opposed to the use of liquor that they would resort to torture to prevent its use. Many people are abstainers for one reason or another yet they oppose such a law (prohibition) because it robs a freedom-loving people of the very principle for which they fought."

Dr. Henry F. Risch, No. 2416 Clarendon Road, Brooklyn, N. Y., believes that prohibition is unenforceable:

"For fifty years I have been in intimate communication with many thousands of people of all classes and in almost every family I found one or more persons who made their families unhappy by partaking of alcohol to excess. Absolute prohibition such as the Volstead Act ordained would certainly be desirable if practical and workable but in the time we have tried it it has been proven that prohibition causes more disasters than it prevents."

Dr. E. L. Volgenau of the Department of Health of Buffalo, N. Y., seeing prohibition as a complete failure, wrote as follows:

"The Eighteenth Amendment was passed after fifty years of consistent effort and the expenditure of millions of dollars contributed by well-meaning people. It becomes apparent that a similar effort and expenditure will be necessary in order that the country may be brought out of the chaos of crime, disrespect for law and other deplorable consequences of the ill-advised Eighteenth Amendment.

"The adoption of this legislation was believed to have settled the question, but time has shown that prohibition is still a leading question in our national policy and will so continue until our electorate has been afforded an opportunity to voice its desires."

From Finland, the only other country besides the United States where prohibition laws are in effect, excepting the

Mohammedan nation of Hedjaz, came the plan of Dr. Ragnar Legercrantz, of Mantyharju, who wrote:

"It is no crime to imbibe alcohol in moderate quantities, but misuse of alcohol should be severely punished. National temperance cannot be achieved through prohibition."

That people may be trusted with liquor was the concurrent view of Dr. Frederick Wellington Buck, Washington, D. C., who wrote:

"There was more liquor in our homes in the year 1920 (due to people laying in supplies before prohibition) than any year in our history. All statistics, even those compiled by dry organizations, prove that year to be the lowest on record for all crimes, including drunkenness. (For proof of this fact consult hearing on House Joint Resolution, 203.)

"The above facts prove that the people can be trusted with liquor in their homes. Restore their rights and crime will immediately drop to the 1920 level and in time much lower.

"The Bible teaches temperance everywhere, prohibition nowhere, except for sins enumerated in the Ten Commandments. If the time ever comes when we can successfully legislate morals into people, then there will be no further need for the church and the minister."

Home education will bring about temperance, in the opinion of Dr. L. Froland, Seattle, Wash.:

"We, as a nation depend entirely too much on public institutions, the school, the church, and law-making in building of character and morals in the minds of our children. Violation of the law will not stop until it has been fully realized that the forming of character and morals rests with the home and nowhere else. The home is the foundation upon which the morals of the country must rest. Its work and responsibility cannot be turned over to anybody else."

Alcohol has a staunch friend in Dr. Thomas E. Scott, West Point, N. Y., who sees in it many therapeutic qualities. He wrote:

"There are practically no people in history who have not

demanded and obtained alcohol in drinkable form. A fact sufficient in itself to indicate that alcohol possesses properties of great value to mankind. There is also ample scientific evidence that it fulfills a need in our complex organism, not even approached by any other agent.

"Contrary to general belief, alcohol possesses no habit-forming qualities whatever, nor does it exact more than the usual penalties associated with over-indulgence in any other valuable gifts of life. The margin of safety is so great, in fact, as to defy comparison. It therefore follows that harm lies in our treatment rather than in the article itself.

"Modern psychiatry has shown that persons who habitually overindulge in alcoholic drink belong to the mentally defective class. Individuals who cannot face the exacting demands of life escape from reality in alcoholic stupor. Whether or not this is true in every case it is certain that overindulgence is not a problem of the normal individual and he should not be punished because of the conduct of a few. Temperance is undeniably a problem of the individual whether we wish it or not."

Dr. Thomas Noxon Toomey of St. Louis University, St. Louis, Mo., proposed:

"That the principle of an eminent right to control the manufacture, importation, exportation, transportation, sale, use, and consumption of alcohol and alcoholic beverages by the body politic, be so enunciated as to replace the words 'intoxicating beverages' by the words 'narcotics and similarly deleterious substances.'

. . . "It weakens our Constitution to have in it an amendment under which there is declared to be fact what many hold rather to be a matter of opinion."

The head of the Los Angeles Department of Health, Dr. J. L. Pomeroy, submitted a carefully worked out plan embodying three major changes:

"First: The repeal or modification of the Volstead Act, retaining United States Government jurisdiction only over liquors containing twenty per cent or more of alcohol, and

permitting the manufacture and free use of light wines and beers containing less than twenty per cent alcohol under State regulation or local option.

Second: The official classification of liquor containing twenty per cent or more alcohol with the habit forming drugs.

Third: The transfer from the United States Prohibition Department to the United States Public Health Service of supervision of prescriptions containing over twenty per cent alcohol."

Dr. Pomeroy recommended drastic treatment of inebriety. Thus "(e) Suitable legislation shall be enacted that persons committed three or more times as chronic alcoholic addicts shall be examined by a board of experts for a medical-social diagnosis and may be ordered sterilized."

The plan of Dr. Edward Binzer, Toledo, was interesting for many reasons:

"I was born and reared next door to a saloon where I could observe the ravages of liquor. And I have also 'tended bar' in the lowest class of saloon, thus allowing plenty of opportunity to see the effects physically, morally, and economically. All that turned me against liquor and the traffic in liquor. At the same time I am acquainted with the virtues that alcoholic beverages have from the standpoint of medicine, since it so happens that I am a practicing physician. It will, therefore, be readily understood that my ideas represent a sort of balance sheet of the entire subject and not simply a one-sided fanatical opinion.

. . . "I can see no earthly reason why beers and light wines should be interdicted."

Dr. J. R. Mays, Director of the Homeopathic Hospital of Rhode Island, Providence, wrote:

"Existing laws should be repealed, amended or interpreted to permit the manufacture and sale of so-called light wine and beer with an alcoholic content not to exceed six per cent."

Dr. Bernard F. McElroy, physician and member of San Francisco Lunacy Commission:

"We are now sending more inebriates to State hospitals than ever before. The number of commitments from this cause has increased greatly under prohibition.

"Most of the people who come before the lunacy commission are of the poorer class. They will have their liquor regardless of the law, and since better grades of whiskey are expensive, these people buy the cheapest kinds—canned heat, 'spiked' beer, and denatured alcohol from which the denaturing agents are supposed to have been removed are the common drinks, I believe. Certainly, it is a hazardous thing to drink such liquor. This is especially true of the denatured liquors.

"Mr. Hearst's plan to find a temperance substitute for present prohibition laws certainly meets with my approval. I hope that it will lead to a solution of the problem."

Physicians interviewed on the subject of the purposes of the Temperance Contest were fully as outspoken, as the following expressions indicate:

Dr. Shirley W. Wynne, Health Commissioner of the City of New York:

"The present state of affairs under prohibition, constitutes a setback rather than an advance. There appears to be more drinking in the country today, especially among the young people, than before prohibition."

Dr. John J. Dowling, superintendent of Boston City Hospital, Boston:

"As superintendent of the largest hospital in Massachusetts I have had an opportunity to observe the effects of prohibition and note the consequences which have resulted from it. In the last year approximately 2,000 persons were admitted to our wards for alcoholism. It must be comparatively easy to purchase synthetic gin and other liquors, as shown by the admissions to this hospital for alcoholism, and this proves to my mind that the prohibition laws are not preventing the sale of alcoholic beverages."

Dr. Charles B. Reed, President of the Chicago Medical Society:

"Prohibition in America has been a terrible failure, and the more quickly people are made to realize it the better off this nation will be."

Dr. Royal S. Copeland, United States Senator from New York, eminent medical authority, and formerly Health Commissioner of the City of New York:

"The chief weakness of prohibition today lies in the fact that the average citizen refuses to believe that it is a crime to take a drink."

Himself a Methodist, Senator Copeland declared:

"This (political lobbying) is no fit business for churchmen to be in. They should be out teaching ethics and morals to the people instead of spending their time in Washington trying to influence legislation. If I had my way I'd tear down the Methodist building stone by stone and hurl it into the Potomac."

Dr. Louis I. Harris, General Director of the Public Health Service of the National Dairy Products Corporation, and formerly New York City Health Commissioner:

"The abolition of the saloon would certainly be ideal; but the saloon has not yet been abolished—it has merely been forced to conceal its front. As a public health worker, I have had the chance to see what the saloon does for society. In my years of district visiting in Hell's Kitchen, for the Vanderbilt Clinic, I saw the misery wrought by the abuse of alcohol. It was not only a poison to brain and body, but one of the fundamental causes of hopeless and unending poverty. I saw the spectacle of the saloonkeeper arrayed against the family, with the former always acquiring what was needed for the rehabilitation of the latter.

"But reformers in seven-league boots are bound not only to leave public approval behind them, but also to arouse public opposition. Scientists with a public health viewpoint, sociologists and economists are alike agreed in condemning alcohol as a public menace except when used most temperately. But the existing drastic and practically impossible legislation has by its absoluteness defeated the very objects

which rational minded public health workers are trying to achieve."

Dr. H. Mayo F. Behneman, physician and Director of Laboratories at Franklin Hospital, San Francisco, and lately District Medical Officer for the United States Marine Corps in the Rocky Mountain States:

"Permanent, complete alcoholic prohibition stands no chance of being accepted in this country. The pendulum has swung the other way!

"Despite the prohibitionist politicians, America's death rate in 1926 was higher than in 1925 in twenty-three of the twenty-eight States of the Department of Commerce registration area. And in 1925, the death rate was higher than 1924, in sixteen of those states. Back in 1919, when a good many deaths from post war illnesses were occurring, the registration area death rate was 12.8 persons out of every thousand; seven years later, in 1926, the rate had dropped to 12.1, a decrease of seven-tenths of one person out of every thousand."

Dr. Albert F. Griffiths, consultant of the Chemico-Biologic Laboratories, New York, and chief of the A. E. F. Medical Corps in the Coblenz occupational district in the World War:

"The result sought by the people who framed the Eighteenth Amendment has not been achieved, as I see it. Their effort seems to have been a failure. In the little corner of civilization that I see, a man can get all the liquor he is willing to pay for."

Dr. William H. Park, of New York University, specialist on pulmonary diseases, and member of the New York Board of Health:

"There seems to be little doubt that temperance is something greatly to be desired and also that it is something that our so-called prohibition has in a great measure failed to achieve.

"Mr. Hearst's contest calls for clear thinking on the part of the contestants, and there is a chance that through this

competition of ideas a genuine solution for the present liquor problems will be reached."

Dr. Charles Wilbur Scheib, Chief Surgeon of the Correction Hospital, Welfare Island, New York:

"From my observation of the intolerable conditions, I am entirely opposed to the workings of prohibition. Certainly temperance is a condition to be desired and one which every physician should be willing to bend his efforts to bring about. At this hospital we have from 500 to 600 alcoholic cases annually.

"Prohibition should be left to the individual. Every physician knows it is true that there are persons so lacking in will power and self-control as to appear to need outside restraint, but I should hardly say that the present prohibition laws are proving of any benefit to them."

Dr. Tilton E. Tillman, physician and member of the San Francisco Lunacy Commission, had this to say:

"Hooch, moonshine and bitters—these three are now sending more men to our State hospitals as victims of chronic alcoholism than at any time in pre-prohibition days.

"We not only have more cases of alcoholism now than ten years ago, but we have more cases in proportion to the increase in our population. The ratio is on the increase.

"The sale of bitters is legalized by the government. Such bad-tasting substances have been added that presumably no one will want to drink the concoction but the desire for alcohol is so great that bitters are drunk for their alcoholic content, regardless of taste.

"The present prohibition law is, in my opinion, too drastic. I do not see how the prohibition amendment can be repealed, but the law certainly could be modified."

Disregarding for the moment liberty and the pursuit of happiness, what has been the effect of prohibition on the life of the American citizen? Dry leaders are given to the bland assertion that Federal prohibition has lowered the national death rate. Opposed to this is the refutation of E. Clemens Horst, an entrant in the Temperance Contest quoted else-

where. Through painstaking research, involving voluminous correspondence with authorities both here and abroad, Mr. Horst has been able to compile officially certified comparative statistics relating to death rates.

In May, 1929, the United States Census Bureau published a report of deaths per capita caused by alcoholism. Mr. Horst, commenting, said:

"The report shows that for 1927, the last year for which the Bureau has published such figures, there has been a staggering increase over 1919 in the per capita death rate from alcoholism in every State in which the Bureau compiled statistics of death rates by causes (thirty-two States and the District of Columbia). The only exception to the rule is Vermont, which had the same per capita rate for both 1919 and 1927.

"The comparison of 1927 with 1919 is deemed of particular importance because 1919 was the last year before the national Government began its 'noble experiment.' Of especial interest is the fact that Kansas, pioneer prohibition State of the Union, having enacted State prohibition in 1880, shows a higher percentage of increase in its per capita death rate from alcoholism than does any other State."

DEATHS FROM ALCOHOLISM

As regards percentage of increase in 1927 over 1919:

Kansas	600	New Jersey	193
Maryland	547	Missouri	182
Montana	326	Connecticut	180
Colorado	300	Pennsylvania	167
Michigan	300	New Hampshire	162
Illinois	273	Indiana	162
New York	270	Rhode Island	152
Florida	250	Massachusetts	148
South Carolina	200	Mississippi	133
Oregon	200	Wisconsin	127
Louisiana	200	Minnesota	121

Utah	114	California	46
Delaware	96	Washington	43
North Carolina	62	Maine	24
District of Columbia	62	Ohio	23
Kentucky	57	Vermont	0
Tennessee	56		

UNITED STATES (entire registration area) 150

Comparing United States figures with those of other countries Mr. Horst found the situation truly startling:

DEATHS FROM ALCOHOLISM PER 100,000 FOR THE YEAR 1927.

United States	4.00
Canada	2.00
Belgium	1.83
Scotland	.92
England and Wales	.27

The above statistics are from reports furnished by the American Consuls General of the respective countries. They are to be supplemented by similar statistics supplied by other consulates with which Mr. Horst is in correspondence.

Meanwhile he has prepared interesting graphs based on the 1926 death rates—from all causes—of ten foreign states: Germany, Sweden, Switzerland, England, Norway, Canada, Denmark, Australia, Holland, and New Zealand. The graphs show that whereas in 1919 only three of the ten wet states listed above had lower death rates than the United States, in 1926 all ten had lower rates than the United States.

As for the rate of decrease in the death rate during the period, the Horst graphs show that only New Zealand made as poor a record as the United States. Yet since New Zealand is distinguished by having the lowest death rate of all it is perhaps unfair to compare her rate of decrease with that of the United States. The figures follow:

Per capita decrease in deaths from all causes, 1919 to

1926, by percentage: Germany 3.9; Australia 3.3; Norway 3.2; Sweden 2.6; Switzerland 2.5; England 2.3; Canada 2.3; Denmark 2.0; Holland 1.0; New Zealand .8; United States .8.

The following penal institution statistics were also analyzed by Mr. Horst:

PRISONERS RECEIVED IN FEDERAL AND STATE PENITENTIARIES AND REFORMATORIES IN THE YEARS 1910, 1923, AND 1926 *

Number of Prisoners Received			Offense	13 Years 1910 to 1923		3 Years 1923 to 1926	
				Increase in U.S.A. Population 20.3%		Increase in U.S.A. Population 5.8%	
1910	1923	1926		Increase 1923 over 1910 in Commitments to Prison	Prison Commitments Increased in 1923 over 1910 — times the Concurrent Increase in Population	Increase 1926 over 1923 in Commitments to Prison	Prison Commitments Increased in 1926 over 1923 — times the Concurrent Increase in Population
2,653	3,443	2,552	Homicides (see footnote "a")	29.8%	1.5	−25.9%	−4.4
1,077	1,497	1,567	Rape	39.0%	1.9	4.7%	.8
1,236	2,961	3,617	Robbery	139.6%	6.9	22.2%	3.8
2,713	1,889	2,103	Assault	−30.4%	−1.5	11.3%	1.9
6,051	6,337	7,152	Burglary	4.7%	.2	12.9%	2.2
1,626	2,649	2,741	Forgery	62.9%	3.1	3.5%	.6
8,097	8,777	11,724	Larceny and related offenses	8.4%	.4	33.6%	5.8
1,136	1,653	1,752	Sex Offenses, except rape	45.5%	2.2	6.0%	1.0
325	2,719	3,489	Violating Liquor Laws	736.6%	36.3	28.3%	4.9
23	2,181	1,889	Violating Drug Laws	9382.6%	461.7	−13.4%	−2.3
150	244	374	Carrying Weapons	62.7%	3.1	53.3%	9.1
135	282	439	Nonsupport and Neglect of Family	108.9%	5.4	55.7%	9.5
	262	92	Violating U. S. Postal Laws			−64.9%	−11.1
105	35	65	Violating U. S. Revenue Laws	−66.7%	−3.3	85.7%	14.7
2,345	2,490	3,495	Other Law Violations	6.2%	.3	40.4%	6.9
60	166	277	Not reported	176.7%	8.7	66.9%	11.5
27,732	37,585	43,328	Total including Liquor & Drug Laws	35.5%	1.8	15.3%	2.6
27,384	32,685	37,950	Total excluding Liquor & Drug Laws	19.4%	1.0	16.1%	2.8

*Compilation from U. S. Bureau of Census Report, *Prisoners in State and Federal Prisons and Reformatories—1926.* These are the only years for which the Census Bureau published statistics.

A—BREAKDOWN OF POLICE AND COURTS.

The following figures show that in 1923 and 1926 there was a serious breakdown in the efficiency of our police and our courts in the convictions for homicides. The number of convictions for every 100 homicides in the United States was: 46 in 1910, 38 in 1923, and 25 in 1926, which is a decrease in efficiency of 17% in 1923 as against 1910, 34% in 1926 as against 1923, and 46% in 1926 as against 1910. There were numerically many more homicides in 1926 than in 1910 and yet numerically many less convictions.

It is a reasonable assumption that the breakdown of our police and our courts is greater as to all crimes below homicide, than it is for homicide, as the more serious the crime the greater the efforts to punish and prevent it.

By increasing the convictions in the above table by the percentage of increase in inefficiency as shown in the case of homicides, the increase in all crimes will be shown to be far greater than shown by the prison commitments.

B—LIQUOR AND DRUG LAWS.

The bottom line of the above statistics refutes the persistent claims that our liquor and drug laws are the cause of the enormous increase in prison commitments.

C—AGE OF PRISONERS.

The following comment is made in the U. S. Census Bureau's 1926 Report on Prisoners—

"The ratio of prisoners per 100,000 of the general population is highest for the male prisoners 20 years of age, and next highest for those 19 years old. The ratio is also strikingly high for those 18 years old, and for the age group 21 to 24 years old. The ratio of prisoners to population steadily decreases with advancing age, beginning at the age of 21. In the case of the female prisoners the ratio to population is highest for those 19 years of age and is slightly smaller for those 20 years old, and decreases rapidly for each successive higher age group."

The crime wave of youth is not attributable to returned soldiers. The youth of 1926 was not a soldier in 1918.

Dr. Boris Brasol, criminologist, sociologist, and author of "Elements of Crime," former prosecuting attorney, St. Petersburg, Russia, member of the Advisory Board of Criminal Science, New York, wrote:

"The most alarming feature of National Prohibition seems to be the impetuous spread of intoxication among American-born children. In the judgment of criminologists this condition is all the more disturbing because the psychic constitution of the adolescent is weak; it comprises a large number of non-social impulses and egocentric urges, while at the same time motives of self-restraint play a limited rôle in the social conduct of the under-aged."

CHAPTER V

BENCH AND BAR OPINIONS

MEMBERS of the bar contributed a greater percentage of the plans in the Hearst contest than did any other professional group. They based their findings generally on the hypothesis that law is an organic thing, a social growth. It is a crystallization and expression of common sentiment. Therefore, if a law is to live it must evolve naturally—it cannot be artificially fabricated.

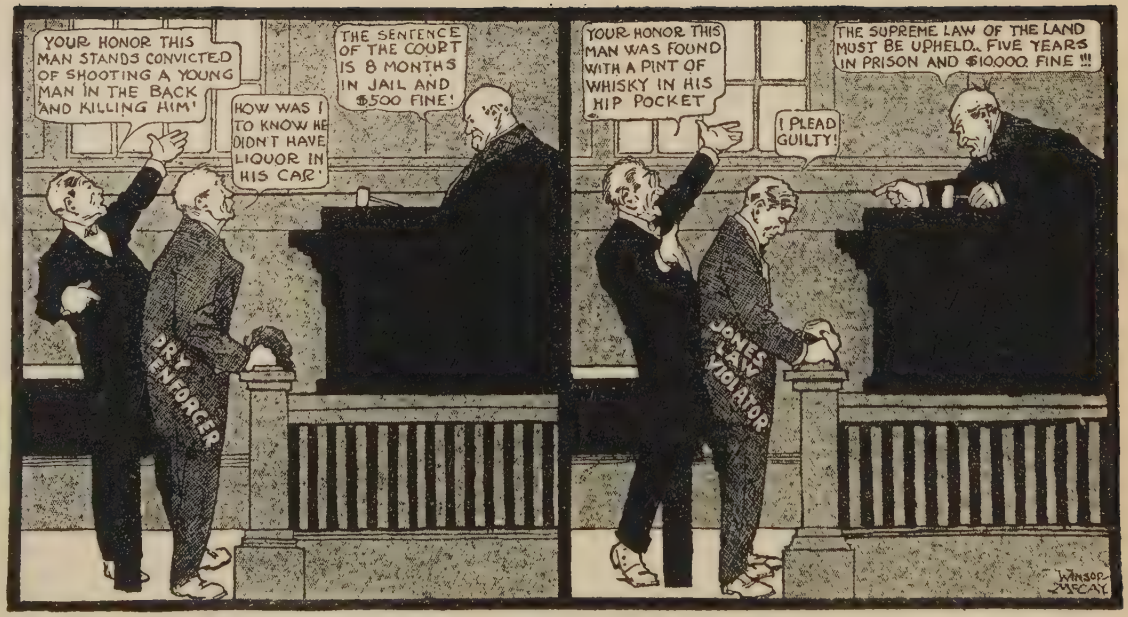
There is a common tendency to exalt man-made laws to the dignity, the uniformity, and the ruthlessness of the laws of nature. Among many there is a disposition to make them as inexorable as natural laws.

Respecting the present harsh insistence upon a regimented obedience to arbitrary laws, Frederick W. Peabody, distinguished lawyer, of Ashburnham, Mass., in his plan stated:

"Nearly all of the religious organizations of the country formerly had their temperance societies, which have not fallen into dissolution. It would be manifestly absurd to teach temperance in an indulgence legally prohibited of a substance legally non-existent; but any method in the least degree efficacious in inducing habits of temperance must start with the assumption that a will to temperance on the part of the individual is a prerequisite to a temperate life. If his will cannot be educated, disciplined, if he cannot be taught and will not practice self-control, he is hopeless."

Laws are not sacrosanct in the opinion of Samuel D. Mott, Passaic, N. J., who quoted Blackstone:

"Laws are made to be obeyed only so long as people want to obey them."


YOUR HONOR THIS MAN STANDS CONVICTED OF SHOOTING A YOUNG MAN IN THE BACK AND KILLING HIM!
HOW WAS I TO KNOW HE DIDN'T HAVE LIQUOR IN HIS CAR!
THE SENTENCE OF THE COURT IS 8 MONTHS IN JAIL AND $500 FINE!
DRY ENFORCER
YOUR HONOR THIS MAN WAS FOUND WITH A PINT OF WHISKY IN HIS HIP POCKET
I PLEAD GUILTY!
THE SUPREME LAW OF THE LAND MUST BE UPHELD.. FIVE YEARS IN PRISON AND $10000 FINE !!!
JONES LAW VIOLATOR
WINSOR MCCAY

JUSTICE VS. DRY LOGIC

And W. E. Dennison of Alameda, Calif., quoted the same authority:

"Every wanton and causeless restraint of the will of the subject, whether practised by a monarch, a nobility or a popular assembly is a degree of tyranny." Mr. Dennison also cited Sharswood: "Whenever laws attempt more than is necessary to secure alike to every man, weak or strong, rich or poor, ignorant or uninstructed, the right, the moral power of seeking his own happiness in his own way, they invade the natural liberty of which they ought to be the bulwark."

Joseph Moore of Enfield, New Hampshire, wrote, "Every law should be substantially self-enforcing as respects the uniformity of sentiment back of it." The same thought was expressed by G. M. Boesinger of Forest Hills, N. Y., who wrote that "only that law can be enforced which is willingly observed by a preponderance of society's numbers."

In his plan Frank H. Norcross, criminologist and former Chief Justice of the Supreme Court of Nevada, averred:

"There is no greater fallacy than that a government, however powerful, can enforce any statute its law-making power may see fit to enact. Until human nature undergoes some metamorphosis, majorities, permanent or temporary, will not be able successfully to compel acceptance by substantial minorities of the opposing ideas of the majority. When a genuine reform finally takes hold of the general public mind, the occasional recalcitrant can be held in check by a penal statute—beyond this they have never successfully functioned."

In a similar vein, Cecil W. Brown of New London, Conn., quoting Pelatiah Webster, stated: "Laws or ordinances of any kind (especially of august bodies of high dignity and consequence) which fail of execution, are much worse than none. They weaken the government, expose it to contempt, destroy the confidence of all men, native and foreigners, in it, and expose both aggregate bodies and individuals to many ruinous disappointments which they would have escaped had no such law or ordinance been made."

Mr. Brown added: "The 'ruinous disappointments' come from the ignorance of zealous reformers who fail to recognize the limitations of legislation."

Yet legal enactment is not without its effect, if conforming to enlightened experience, in bettering social morality, for as a Canadian contestant W. Patterson of Montreal, suggested: "People cannot be made morally better by legislation; this betterment can be effected only by education and moral suasion. Legislation may, however, create conditions that will favor the accomplishment of that object."

Mr. Boesinger, previously quoted, defines law as "the attempt of organized society to impose the collective will on its individual members."

J. H. Parker, Jr., of West Long Branch, N. J., wrote: "The person of today lives up to three different sets of laws; those of his God, of his conscience, and those made by social groups that make up the government under which they live. The majority legislate this third group of laws in accordance with the knowledge, feelings and desires derived from the first two. Temporary circumstances exert their influence also in the passing of many laws, particularly when some possible disaster may be staring the citizens in the face."

Professor John Hanna, of the Faculty of Law, Columbia University, gave this definition: "A law is a description of the habit patterns of a community," in respect to its subject matter.

It is one of the perils of government that so-called laws may be constitutionally enacted, and even constitutions themselves altered, under wholly legal forms, although such new statutes may be wholly lacking in the fundamental sanctions of valid law.

The nature of written constitutions is sharply set off from the field of legislative enactments superior to them in dignity and authority. A constitution, as Elihu Root argued in an important case, is a general grant of rights and privileges. It is not a legislative instrument. The importation into the Constitution of the United States of such

an amendment as the Eighteenth, cheapens that instrument by incorporating in it not only a legislative measure, but a legislative measure of a sort that the whole course of recorded history has shown to be unenforceable.

Charles Andrus Ellis of No. 14 Wall Street, New York, stated: "The defect in the Eighteenth Amendment is not that it translates liquor regulation into a national question, but that it injects private penal law into the Constitution and, by imposing arbitrary prohibition, prevents temperance legislation. To magnify the sale of a glass of pure wine to such estate that it constitutes infraction and dishonor of the Constitution is really to minimize the Constitution. And to so provide that no legislative forum in the land can constitutionally authorize or regulate such a sale is to endanger the Constitution."

George Turner, Spokane, Wash., submitted: "As to the Eighteenth Amendment, there is nothing about it that is organic or fundamental. It is a police regulation, and no less so because embedded in the midst of the great organic provisions which constitute the framework of the Constitution.

"It has not behind it the historical background evidencing the purpose of all the other provisions. . . . The amendment is not organic. It has no relation to the general powers of the national government. It has no place in the constitution of government either Federal or State. It is, to all intents and purposes a penal statute."

Except for the Eighteenth Amendment all the constitutional amendments are fundamental grants of power or limitations on power. Wilbur F. Earp, No. 150 Broadway, New York City, said: "The Constitution was not a code of laws for the governing of the people, but on the contrary a prescript for the structure and control of government—national and State—by the people.

"The prime purpose was, apart from the setting up of an entity to deal with foreign affairs, to erect an invisible barrier between the people and the excesses of all officialdom.

"It limited and defined the powers and duties of governmental agencies, but contained no rules for the conduct of the individual, except a reference to treason."

John J. Gorman, former member of Congress from Chicago, in his plan observed: "The vice of the Amendment is its enactment in perpetuity into the organic law of the nation of a mere regulation of habit. Unlike a statute, it does not permit of facile modification to meet the progressive changes of society.

"It might as well have been an amendatory article, fastened upon posterity some twenty years ago, prohibiting to women the use of cosmetics, the wearing of bobbed hair and the ornamentation of abbreviated skirts. It overrides time-rooted customs, wrenching them from the social structure with the suddenness and violence of a revolution."

Considered purely as penal statutes the Eighteenth Amendment and the legislation based thereon leave much to be desired. Frank H. Norcross, previously quoted, observed: "An effectual penal statute must have the support of at least eighty, and probably a far greater per cent., of public approval. The main category of offenses in the present penal code has one hundred per cent. approval.

"The history of the gradual development of that code proves the assertion that penal law has its limitations, and that a penal statute is without requisite force to change the beliefs and customs of millions of people, or to compel them to conform to the ideas, correct or otherwise, of other millions.

"Great as is the importance to the nation of law observance and law enforcement, a fundamental prerequisite is that statutes conform to controlling principles."

In the political sphere, as L. F. Hackman, an attorney formerly on the staff of Prohibition Administrator Yellowley at Chicago, noted:

"National and State officers are in general elected on the strength of their *dry* sentiments, whereas local officers are elected on the strength of their *wet* sentiments; a con-

dition hardly reassuring to those who value integrity and honesty in government."

George Turner, Spokane, Wash., quoted a pertinent passage from John Stuart Mill:

"Mill first states the argument of proponents of prohibition, in that case 'the alliance,' formed to secure prohibition in England, as follows:

" 'If anything invades my social rights, certainly the traffic in strong drink does. It destroys my primary right of security by constantly creating and stimulating social disorders. It invades my right of equality by deriving a profit from the creation of a misery I am taxed to support. It impedes my right to free moral and intellectual development, surrounding my path with dangers, and by weakening and demoralizing society, from which I have a right to claim mutual aid and intercourse.

" 'A theory of "social rights," the like of which probably never before found its way into distinct language—being nothing short of this—that it is the absolute social right of every individual that every other individual shall act in every respect exactly as he ought; that whoever fails thereof in the smallest particular violates my social rights and entitles me to demand from the legislature the removal of the grievances.

" 'So monstrous a principle is far more dangerous than any single interference with liberty; there is no violation of liberty which it would not justify; it acknowledges no right of freedom whatever, except to that of holding opinions in secret without ever disclosing them, for the moment an opinion which is considered noxious passes my lips, it invades all the social rights attributed to me by the alliance. The doctrine ascribes to all mankind a vested interest in each other's moral, intellectual and even physical perfection, to be defined by each claimant according to his own standard.

" 'What the French are in military affairs the Americans are in every kind of civil business; let them be left without a government every body of Americans is able to improvise

one, and to carry on that or any other public business with a sufficient amount of intelligence, order and decision. This is what every free people ought to be; and a people capable of this, is certain to be free; it will never let itself be enslaved by any man or body of men because they are able to seize and pull the reins of central administration. No bureaucracy can hope to make such a people as this do or undergo anything that they do not like.' "

"In any community which is pledged to government by the people, of the people, for the people," wrote Vernon Henning Petrie, of Palo Alto., Cal., "a law which represents nothing but the will of a majority long since dead, or the will of a willful minority now living, is not government of the governed. It is as tyrannous as a law which represented nothing but the will of an alien king."

But the well-recognized principle which lays upon a people the duty of seeing that laws are just interpretations of a living social conscience, is very far from counseling casual changes in the underlying charter upon which they rest. In this connection many contestants quoted the passage from Washington's farewell address, which cautions, "resist with care the spirit of innovation upon its (the Constitution's) principles, however specious the pretexts. One method of assault may be to effect, in the forms of the Constitution, alterations which will impair the energy of the system, and thus to undermine what cannot be directly overthrown."

What is the basic construction of the American constitutional system? A government by the fairly expressed will of a majority? Yes. A government of checks and balances by which power is delegated to the three major divisions of legislation, executive and judicial functions? Yes. But even more fundamental is the principle that personal liberty and local self-government are basic in American democracy. Thus I. Jay Miller, of Lexington, Ky., wrote:

"Local self-government in America is merely the application of the principle of personal liberty to the individual States. Federal government contemplates a surrender by

the States of their right to local self-government, but only to the extent that effective existence of the national state demands. Coöperation between State and nation is weakened when the latter attempts any unreasonable curtailment of the right to local self-government."

Powerfully centralized powers in war time are the life of the state. Continuation of these powers after the passing of such a national emergency constitutes a threat to any state founded upon American principles more direct than war itself.

There has been noted a tendency, greatly accelerated and intensified since the late war, for the States to look more and more to the Federal authority in public measures. This must awaken the grave concern of all informed observers. National prohibition legislation is but one illustration, albeit the most mischievous, of this tendency.

As one contestant, who requested that his name be withheld, stated:

"The issue is whether democracy is to be a success or a failure in our country. We must soon decide whether local self-government or long-distance government by provincial minds of mediocre ability is best. The tyranny of a centralized bureaucracy swayed by an organized minority, selfish or fanatic, can only result in an end of true liberty as conceived by the founders of this republic."

J. Leonard Baer, Wheeling, W. Va., wrote: "The country, the city, the State, should be the real training ground and testing ground for statesmen. The Constitution and the Federal statutes should not be cluttered with experimental legislation. For the whole political system becomes degraded when we remove from the home community its control over the intimate affairs of life and concentrate enormous powers in Washington. Questions are now decided by mass appeal, and the individual voter, being lost in the multitude, feels that his vote does not count, and, in increasing numbers, ceases to take the trouble to vote."

In a very real sense perpetual vigilance is the price of

liberty, particularly against insidious legislative aggression, which, even though it may be justified in itself in a particular case, may yet be disastrous by reason of the opening of the door of precedent for future legislation by no means innocuous in character.

In many respects the body politic may be compared with the human body, and in no way more truly than in the fact, repeatedly noted in history, that a marked tendency towards centralization of governmental functions represents a definite lessening of vitality and an impairment of the whole organism. There is no reason to suppose that such impairment has taken place in the American body politic as a whole, because the high pressure means by which the national prohibition legislation (the most dangerous example of this centralizing legislation) was enacted are well known.

There will be grounds for such supposition, however, if the people acquiesce and accept this type of legislation. At present it may more justly be said that vigorous popular realization of American political institutions has grown flabby for want of exercise, due to relative neglect of these matters in the social consciousness because of preoccupation with the industrial and commercial phases of our life and the process of becoming "internationally minded" since the war.

Thus, "Even before the adoption of the Tenth Amendment," as W. Barrett of Centralia, Wash., observed, "it was believed by proponents of ratification that a State could not be deprived of its own powers without the consent of its own people given through its representatives chosen directly with regard to the question at issue."

And Blount Coleman Trice of Pawhuska, Okla., wrote:

"The rule laid down in the Fourth, Sixth and Tenth Amendments of the Constitution is all sufficient and truly American. The people of the several States are amply able to determine what is injurious and dangerous to public safety, public health and public morals of their inhabitants. This is American. It is more liberal, a just rule."

Much has been made of the principle of majority rule in government, and great emphasis has been placed upon the very debatable point that the present national legislation on prohibition represents the majority will. But as has been set forth in the foregoing, even majority rule must yield where contrary to the natural laws which govern the enactment of enlightened legislation.

The record of the last ten years proves that the prohibition laws violate those principles which both Hamilton and Jefferson urged be safeguarded.

Thus E. W. Ewbank of Ewbank, Whitmire and Weeks, Hendersonville, N. C., quoting Hamilton:

" 'It is of great importance in a republic not only to guard the society against the oppression of its rulers, but to guard one part of society against the injustice of the other part. Justice is the end of government. It is the end of civil society. It has ever been, and ever will be, pursued until it is obtained or until liberty be lost in the pursuit.'

" 'In a society under the forms of which the stronger faction can readily unite and oppress the weaker, anarchy may as truly be said to reign as in a state of nature when the weaker individual is not secured against the violence of the stronger.' "

And Jefferson, who wrote:

"The executive power in our government is not the only, perhaps not even the principal object of my solicitude. The tyranny of the legislature is really the danger most to be feared and will continue to be so for many years to come."

Mr. Ewbank added an observation by de Tocqueville:

"Governments usually fall a sacrifice to impotence or to tyranny. If ever the free institutions of America are destroyed, that event may be attributed to the unlimited authority of the majority."

And Mr. Baer observed: "While the Constitution strongly reflects one of the purposes that was in the minds of those who drafted it, which was to safeguard the minority against the possible encroachment of the majority, it would be an

anomalous situation, ridiculous if not so serious, for the minority to attempt to make use of powers that were primarily intruded for its own protection, to coerce and suppress the majority."

It is well known and admitted that, regardless of popular majorities for or against prohibition, the present national legislation, as well as much of the State legislation on that issue, was engineered by the Anti-Saloon League and similar organizations. It is furthermore well known that, regardless of the nominal membership claimed for these organizations, their actual effective working membership has always formed an exceedingly small proportion of the voting population of this country working principally upon that other exceedingly small group, probably less than ten thousand in number, of representatives of the people, the State legislators.

So that a modern legislative *coup d'etat* was successfully engineered upon the government of the United States by a numerically insignificant group, in the passage of the Eighteenth Amendment and its enabling acts, and in a most far-reaching matter the government of this country was seized and is being held by this group, not by force of arms but by the less obtrusive force of legal enactment.

This is bad, in itself. In its implications and in the legal precedents established it is far worse. Unless the tendency represented by the amendment in question can be isolated and its growth stopped it is already truly subversive of free and vigorous institutions.

This is the consideration par excellence that lends point to the view that quite apart from measures immediately practicable and quite apart from the issue of prohibition or even temperance, the Eighteenth Amendment must eventually come out of the American Constitution, that no compromise can be made with the tendency and forces it represents.

How little good faith may be back of particular legislative measures is illuminatingly shown in Washington today in respect to the present prohibition laws, when Congress

opposes a seemingly impregnable front to ameliorating amendment of those laws and at the same time refuses to pass a sufficient appropriation to make them effective as their proponents claim they can be made effective. Thus placating gestures are made to both sides and the evils of the present regime continue and increase.

"Direct the thought of the people," wrote Henry Alan Johnston, of Gibboney, Johnston & Flynn, No. 49 Wall Street, New York City, "away from the contemplation of the dram shop, the drunkard, and the gutter, and the universally admitted evils of alcoholism, to a consideration of the Constitution and the all important question of representative self-government."

For truly larger issues are involved in the national prohibition laws, and the Eighteenth Amendment, than either the social or the legal disposition of their subject matter. As the war between the States was fought only superficially over the question of slavery, and fundamentally over the deeper issue of the powers of the States in the Federal Union of States, so the present dilemma over national prohibition involves far more than the question of temperance; it is concerned with the general nature of laws and the particular nature of those American institutions that in the past have justified us in calling this a country of freedom and opportunity.

All three of the divisions of government, executive, legislative, and judicial, were suggested by contestants as sources from which the reform of the present prohibition situation might emanate. They will be considered in order.

The number of plans suggesting executive relief, similar to that urged in the fourth prize-winning plan, was exceedingly small. Though the executive branch of the government is charged only with the duty of enforcing existing laws, it nevertheless was generally agreed that the President's influence in recommending legislative measures to Congress was often considerable.

Interesting precedents for the virtual nullification, by the

Chief Executive, of unenforceable or mischievous legislation were given by Daniel Harrigan of Omaha, Neb., who stated:

"The Fourteenth Amendment to the Constitution was adopted in 1868, providing for Negro suffrage. The white population of the Southern States was bitterly hostile to Negro suffrage and resisted it with violence and terrorism.

"Presidents Johnson and Grant sent Federal troops into the South to enforce this Constitutional right of the Negroes, whereupon there ensued a period of economic, social and political chaos which became so acute that President Hayes, although he had taken the oath to 'preserve, protect and defend the Constitution of the United States,' decided to withdraw the troops and abandon the attempt to enforce Negro suffrage. He concluded that further effort to perform his clear Constitutional duty would work disaster. His action left the problem of Negro suffrage to the States."

"The precedent set by President Hayes has been followed by each of his successors in turn: by Presidents Garfield, Arthur, Cleveland, Harrison, McKinley, Roosevelt, Taft, Wilson, Harding and Coolidge, and the wisdom of that policy has become so firmly established that any President who would undertake to depart from it would be placing his sanity in question."

Legislation is referred to by most of the contestants as the source from which relief must come, and probably represents the popular thought on the subject.

Some would amend or repeal the Eighteenth Amendment, and enact a more suitable amendment in various forms. Others would confine their attention solely to the enabling legislation itself.

James W. Gerard, war-time Ambassador to Germany, and one time Supreme Court Justice of New York, in his plan observed:

"Experience has shown that it is easy to amend the Constitution." He proposed to solve the problem by adding the words, "except to the governments of the several States," to the first section of the present amendment.

On the other hand, Ward Bonsall, of Pittsburgh, Penna., would supplant the Volstead Law by more informed legislation, saying:

"Although the purpose of the Volstead Act was and is absolute prohibition, yet the wording of the Eighteenth Amendment shows that the Amendment was adopted for the purpose of temperance, not complete prohibition."

To bring about temperance, Stephen Chalmers, of Laguna Beach, Cal., emphasizes the repeal of the Volstead Act as a necessary first step.

"The preliminaries to this repeal are now being taken in the repeal of State enforcement laws. Maryland, New York, Nevada and Montana already give Volsteadism no aid; Wisconsin and Illinois are in process of joining them; Massachusetts and Missouri are considering the matter. In other States as well there is active revolt against prohibition tyranny and abuses. The campaign for State repeal should be pressed unremittingly."

The idea of a referendum to ascertain the popular sentiment on present prohibition and carry the authority of a mandate for Congressional action does not find so many advocates among the lawyers as among the laity.

However, Grace Hamblen, attorney, of No. 39 Broadway, New York, suggested:

"To discover the will of the people, a national referendum on the prohibition question is proposed, submitting specific questions with no other obscuring issue. As the Eighteenth Amendment and the Volstead Act were enacted without submission to the people, no one now knows whether the majority favors them or not, and such a referendum is a prerequisite to further legislation.

"There is now lacking in our government legal machinery necessary for a referendum. Federal or State laws could be passed to authorize it, but that would mean delay. Therefore it is proposed that the vote be financed by private resources, utilizing federal and state facilities where possible and with proper safeguards to insure a fair count."

Distinguished from the above is the suggestion of Edward A. Alexander, of No. 170 Broadway, New York, for a national referendum based on Article I of the Bill of Rights of the Constitution:

"There should be called together two representative business men from each Congressional district to serve as voluntary delegates at a National Citizens Convention, 'peaceably to assemble and to petition' Congress to submit to the American people the repeal or modification of prohibition."

W. R. Robertson of Carthage. Mo., proposing a referendum by the second method, indicated by Article V of the Constitution, wrote:

"The application of the legislatures of two-thirds of the several States to Congress to 'call a convention for proposing amendments,' therein provided for, affords the sole legal mode of referendum to the source of all political power —the people."

While Robert D. Godfrey, of Cleveland, O., held the opinion that

"In order to secure sufficient public interest to amend the Eighteenth Amendment, it would seem advisable to have a plan as a substitute for it prepared in advance that is practicable and so devised as to command the confidence of the advocates of both sides of the prohibition question."

As to precedents, Mr. Chalmers, already quoted, observed:

"The decision upholding it can be reversed; there is precedent for reversals. An income tax was sustained in Civil War times, voided later. The Webb-Kenyon law decision reversed that of the 'original package' cases of 1891."

Judicial action, to the legal mind, is the method of relief *par excellence*. Judicial relief at one stroke would wipe out the Eighteenth Amendment and all enabling acts. The action contemplated would result from the Supreme Court declaring the Eighteenth Amendment unconstitutional, arriving at that decision after hearing a test case.

The decision handed down in 1920 in the case of Rhode Island vs. Palmer is remarkable for its tentative character,

and seems almost to leave the door deliberately open for reconsideration of the subject, as noted by Francis J. Marthy of Pittsburgh in commenting upon the opinion of Mr. Justice McReynolds, which will be referred to later on by another contestant.

Supreme Court decisions can be and have been reversed. As William S. Siemon, No. 15 Broad Street, New York, observed:

"The time has come when the Supreme Court should welcome an opportunity to reconsider the construction of the Eighteenth Amendment and pronounce to the people of the country not only its conclusion but its reasons. The Court's prior decision is no obstacle to a rehearing and a different construction.

"A decade has passed since the Supreme Court handed down the unprecedented 'conclusions' in the National Prohibition cases and five members of the present court have been appointed since that decision."

There are ample grounds for believing that the significant arguments against the Eighteenth Amendment have not been presented to that tribunal. As Henry Alan Johnston, New York, pointed out:

"Many legal objections to the Eighteenth Amendment are now apparent to constitutional lawyers which were not presented in the test case nine years ago. If the subject is thus removed from the realm of religion and hysterics to the plane of practical constitutional government lawyers all over the country will gladly contribute to a discussion of that nature.

"By proper publicity the people generally will be made to realize that this is a question involving not the drunkard and his folly, but the integrity of their constitutional form of government."

Which latter sentence is the keynote of the whole problem.

Maurice J. Sullivan, for twelve years Lieutenant-Governor of Nevada, urged:

"The legality of the Eighteenth Amendment should be

attacked in the courts by a person whose rights it trespasses, or it may be attacked by any one of the States."

In rendering its decisions the Supreme Court has in general followed the necessary policy of confining its attention to principles of law. While it will give due weight to public sentiment, clearly expressed, as a guidance in legal interpretations, it may not, by its interpretations, remedy inadequate legislation, nor pass judgment upon the wisdom of legally enacted legislation.

The Supreme Court divided five to four in the case of Rhode Island vs. Palmer, which upon the basis of the arguments then presented upheld the constitutionality of the Eighteenth Amendment. In addition the majority decision did the unprecedented thing, in the words of Chief Justice White, dissenting, quoted by Major William M. Connor of Washington, D. C., of handing down its conclusions "without an exposition of the reasoning by which they have been reached."

In this connection the dissenting opinion of Mr. Justice McReynolds, quoted by Major Connor is significant. "I do not," he said, "dissent from the disposition of these causes as ordered by the court, but confine my concurrence to that. It is impossible now to say with fair certainty what construction should be given to the Eighteenth Amendment. Because of the bewilderment which it creates, a multitude of questions will inevitably arise and demand solution here. In the circumstances I prefer to remain free to consider these questions when they arrive."

The common basis of legal attack on the Eighteenth Amendment and subsequent prohibition legislation falls into four main groups, the first two of which deal with the constitutionality of and the last two with the interpretation of the amendment.

The arguments are:

(1) that the Congressional resolution submitting the proposed Amendment to the States required a two-thirds majority, not of those voting, as in purely legislative matters, but of the total enrollment of Congress.

(2) that in so important a matter as the surrender of sovereign powers by a state, division should be made either by popular state referendum, or through representatives elected directly upon that issue, and not, as was the case, by representatives elected upon other, often trifling, local issues before the question of the surrender of rights arose

(3) upon the definition and interpretation of the phrase "concurrent power" contained in Section 2 of the prohibition amendment; and

(4) upon the definition of "intoxicating liquors" contained in Section 1 of that amendment.

The above points will be considered in order.

V. Schall of Hutchinson, Kansas, wrote:

"A quorum is simply for the convenience of legislative business. Congress in submitting amendments is not sitting as a legislative body, but is in effect a Constitutional Convention, for that purpose. Thus every legislative enactment must be signed by the President to become effective, while a resolution submitting a constitutional amendment is valid without his signature."

Maurice J. Sullivan stated that:

"Two-thirds of both houses did not propose the Eighteenth Amendment, as required by Article V of the Constitution. The official vote shows that in the lower house only 282 Representatives proposed the amendment. Two-thirds of the house is 290.

"If the framers and adapters of the Constitution intended that two-thirds of those present of both houses could propose amendments instead of two-thirds of the members elected to each house, they would have used the phrase 'two-thirds of those present,' or a similar wording."

The question of States' rights naturally came in for considerable discussion. That the Federal government, insofar as the prohibition laws are concerned usurped the powers of the individual states, contrary to the Constitution, was generally agreed by the contestants whose plans were concerned with States' rights.

In the Rhode Island case three of the justices strongly dissented from a majority opinion. Francis J. Murphy of Pittsburgh, Pa., quoted from these dissenting opinions as follows:

"Chief Justice White stated that 'the proposition that the exertion of the concurrent powers conferred upon Congress and the States is authorized within different areas, that is by Congress within the field of federal authority, and by the States within the sphere of the State power, hence leaving the States free within their jurisdiction to determine separately for themselves what, within reasonable limits, is an intoxicating liquor, and to Congress, the same right within the sphere of its jurisdiction . . . is the more plausible contention. . . . It is true, indeed, that the mere words of the second section tend to that result.'

"Justice McKenna wrote: 'There are as many solutions as there are minds considering the section, and out of the conflict one despairs of finding an undisputed meaning. . . .'

"And Justice Clarke observed: 'To declare the Volstead Act to be the supreme law of the land . . . such a result can be arrived at only by reading out of the second section of the Amendment the word "concurrent." . . . Such conclusions necessarily deprive the States of all power to enact legislation in conflict with this act, and construe the Amendment precisely as though the word "concurrent" were not in it.'"

Mr. Chalmers observes that the words "concurrent power" should be construed in their ordinary sense, and Mr. Marthy notes the unquestionable fact that the term, prior to the enactment of the Volstead law, was generally understood to carry its ordinary signification, adding that "it is essential to the validity of a contract that the parties should have consented to the same subject matter in the same sense," and that as a general rule, "ambiguities in a written contract should be construed against the writer."

The situation with regard to this much discussed phrase is, finally, succinctly summarized by Palmer Perrine, Miami:

" 'Concurrent power to enforce this article by appropriate legislation' can only mean that Congress and the several States must confine their legislation to their respective Constitutional spheres; the States to intra-State matters and Congress to inter-State or purely Federal matters. To place any other construction on these words would mean either that Congress and the several States have equal power or that one or the other has all the power. The former would create an impassable conflict between State and Federal authority. The latter would leave the words without any meaning whatever and shatter the very fundamentals of constitutional, democratic government.

"The Tenth and Eighteenth Amendments clearly give to each State the right to define what shall constitute intoxicating beverages solely within its borders. Neither the Volstead Act, nor any other law passed by Congress, can take away this Constitutional right. . . .

"Therefore, since the Eighteenth Amendment does not delegate to the United States, nor prohibit to the several States, the power to define what shall constitute intoxicating beverages within their own respective borders the Constitution itself reserves to each State this power. In fact, it emphasizes the reservation by giving the several States 'concurrent power' to enforce this article by 'appropriate' legislation.

"No Federal legislation can be appropriate if it seeks to take away from the several States powers not delegated to the United States by the Constitution."

H. J. Thomas, of Coraopolis, Penna., asserted:

"The State governments are sovereign within their own territorial limits, except insofar as that sovereignty has been delegated to the Federal Government in the Constitution of the United States and the amendments thereto.

"In the Eighteenth Amendment exclusive sovereignty was not delegated to the Federal Government as to the enactment of laws regulating the manufacture, sale or transportation of intoxicating liquors used for beverage purposes.

"The States retained joint sovereignty with the Federal Government in that particular."

Archibald Ewing Stevenson, member of the New York Bar and author of "State Rights and National Prohibition," stated his opinion, that:

"The 18th Amendment is void insofar as it purports to give the United States authority over intra-state business. The decisions of the Supreme Court of the United States, which purport to authorize the transfer of police power from States to the United States under the Eighteenth Amendment, are not binding upon the state or people."

A number of contestants noted a point not generally recognized: that the Federal Government itself is not forbidden to engage in any of the activities prohibited by the Eighteenth Amendment. As George Turner, Spokane, suggested:

"Congress could pass a law establishing a dispensary system. I submit that Congress has the power to adopt such a system, and that its action would not contravene the Eighteenth Amendment, but would be in aid of that amendment. The Government of the United States is not mentioned in the Amendment, nor is it included by necessary implication. We know, as a matter of fact, that the evil it was intended to curb was the manufacture and sale of intoxicating liquors by individuals or private corporations."

In the opinion of Carroll G. Walters, attorney, No. 72 Wall Street, New York, a remedy must be found within the terms of the Amendment itself:

"Section 1 of the Amendment provides:

'After one year from the ratification of this article the manufacture, sale or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all territory subject to the jurisdiction thereof for beverage purposes is hereby prohibited.'

"Prohibited to whom? Obviously, to citizens and States. But is it prohibited to the United States itself—the very sovereignty whose command it is?

"It has long been an established principle that a statute does not apply to the sovereign unless the sovereign be expressly mentioned. . . . No case exactly like this has arisen, but no lawyer can doubt that the Supreme Court, by applying that principle and without violating precedent, could hold that the United States itself may manufacture, import, transport and sell intoxicating liquors; or, in other words, that by the Amendment such manufacture, etc. is prohibited to all others, but not to the sovereignty itself.

"The plan here suggested, therefore, is that the United States itself establish a dispensary system, similar to that which prevailed in South Carolina and now prevails in Quebec.

"If it be suggested that there is nothing in the Constitution which authorizes Congress to establish distilleries and breweries, the answer is clear. There is nothing in the Constitution which in express terms authorizes Congress to incorporate a bank, but it was settled long ago that the power exists.

"The principles of the famous decision of Chief Justice Marshall by which the controversy was settled are sufficient to establish the power of Congress to do what is now suggested. Moreover, since that time prohibition has become, by the adoption of the Eighteenth Amendment, a *national policy,* and Section 2 of the Amendment expressly gives Congress the power to enforce that policy by 'appropriate legislation.' By implication and express terms Congress thus has authority to make that policy effective, and it has *the choice of means.* As Marshall said: 'Let the end be legitimate, let it be within the scope of the Constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consistent with the letter and spirit of the Constitution, are constitutional.'"

The prohibition amendment is unique among the provisions of the Constitution in that, according to Mr. Turner:

"There is nothing then in the framework of the original Federal Constitution, or in any of its inhibitions, or in any

of its amendments, outside the Eighteenth Amendment, which at all limits the sovereignty of the nation, that does not bear on its face such purpose, or that is not backed up by historical evidence conclusively showing that purpose. There is nothing other than fundamental grants of power or limitations on the powers of government in a great charter of government."

Passages from two decisions, of commanding significance in the interpretation of all constitutions were given by Christopher G. Kinney, Chicago:

"In People vs. N. Y. Cent. R. R. Co., 24 N. Y. 485, the Court said, at page 487:

" 'A written Constitution, framed by men chosen for the work by reason of their peculiar fitness, and adopted by the people upon mature deliberation, implies a degree of deliberation and a carefulness of expression proportioned to the importance of the transaction, and the words are presumed to have been used with the greatest possible discrimination.'

"Again, in Beardstown vs. Virginia, 76 Ill. 34, at page 35, the Court said:

" 'In the construction of constitutional provisions and statutes, the question is not what was the intention of the framers, but what is the meaning of the words they have used. A constitution does not derive its force from the convention which framed it, but from the people who ratified it, and the intent to be arrived at is that of the people, and this is found only in the words of the text.' "

The plan submitted by former Congressman Abraham W. Lafferty, New York City, was widely quoted by the press. It attracted the attention of Senator Ben Gettelman of Milwaukee who announced that he would introduce it into the Wisconsin Legislature in the form of a bill.

Mr. Lafferty contends that only State enactment is necessary to permit the sale of "pure beer, wines and liquor for medical purposes in ample quantities without onerous restrictions." His argument is:

"The Eighteenth Amendment conferred upon Congress no power to prohibit liquors for medical purposes. Only power

to prohibit for beverage purposes was granted. Yet, for no reason other than that the sponsors of the Volstead Act personally favored prohibition of the use of liquors both for beverage purposes, and for medical purposes, they dictated the drafting of the law accordingly. In so doing they caused Congress to exert two powers where only one had been conferred.

"The pretence of permitting liquors for medical purposes under the Volstead Act is a gesture, not intended in good faith to permit, but intended to prohibit, liquors for medical use, and to set up in Congress a show of authority where none exists.

" 'In fraud of' the Eighteenth Amendment is the language of four Justices of the Supreme Court in Dr. Lambert's case, 272 U. S. 578, 603. No power had been given to Congress at all on the subject of liquors for medical purposes. All such power, assumed by the Volstead Act, is simply usurped power, which the Supreme Court will rule out when any State actually legislates to the contrary concerning liquors for medical use.

"This constitutional righting of the matter is proposed:

"Let each State, where the demand exists, pass a law permitting the manufacture and sale of real beer, pure wine, and genuine liquors, within its borders, for medical purposes, to be used in the home, and providing adequate penalties for misuse.

"That the Supreme Court will uphold such legislation, whenever the matter is brought directly before it by any State, is a moral certainty. The Eighteenth Amendment would neither be 'violated,' 'nullified,' nor 'evaded,' thereby.

"Such State enactments might very well permit the citizen to purchase beer, wine or other liquor by the case, on his own affidavit that same would be used only in the home for medical purposes, and under the penalties against misuse already mentioned.

"The Constitution neither prohibits liquor for medical purposes, nor requires a doctor's prescription as a prerequisite

to obtaining it. The States could make a doctor's prescription a prerequisite or not as they see fit. The citizen knows as well when he needs liquor for medical purposes as when he needs a dose of castor oil. The right to have liquors for medical purposes implies a concomitant right to have same in quantity, quality and variety suitable to such purposes, and that they shall be conveniently obtainable."

In his plan M. H. Klayer of Cincinnati, O., argued:

"After the passage of the Volstead Act, the Supreme Court ruled that 'All internal revenue laws of the United States applicable to intoxicating liquors for beverage purposes had been repealed by the Volstead law.'

"Then later, (in 1921) Congress passed the Willis-Campbell act,—re-enacting the former internal revenue laws, which the United States Supreme Court had held to be repealed by the Volstead law, thus putting the internal revenue laws back in the same status which they occupied before the Volstead law became effective.

"Isn't it reasonable, therefore, to assume that, if the Volstead law automatically repealed the internal revenue laws, the Willis-Campbell likewise automatically repealed the Volstead law and therefore it is possible the Volstead law is not now really in effect and cannot be legally enforced? Suit should be entered in the Supreme Court to determine this point."

When it came to outlining a programme for constructive legislation regulating alcoholic beverages in the interests of temperance the peculiar value of the legal papers ceases. This is due to several reasons. In the first place the members of the bar, as a class, were more observant of the necessary limitations of the contest. Its primary purpose was to find a way out of the present situation. To this their papers devoted ample attention.

Again, the consideration of the elements entering into any regulatory measures is a matter for the informed consideration of sociologists, and economists, no less than for lawyers. No single class can deal adequately with all the factors of

this problem. Finally the limitation as to length placed upon manuscripts submitted was immediately recognized as precluding any drafting of an adequate regulatory system.

Jurists generally feel the gravest misgivings over the ten years' record of prohibition, not only as a defeat of temperance and an unsuccessful legislative adventure, but much more profoundly over the Amendment and prohibitory legislation itself as significant of the growth of a spirit destructive to American institutions and constitutional ideals.

Questioning the legality of the ratification of the Amendment by the State legislatures the previously quoted Mr. Petrie of Palo Alto, Cal., said:

"Another fact which has only recently been stressed is the truth that, in many States which ratified the Amendment, not all of the legislators then in office recorded the theoretical will of their constituencies by voting either affirmatively or negatively. The Constitution requires that an amendment shall have the ratification of two-thirds of the States, with the assenting vote of two-thirds of each Legislature. Does 'two-thirds' mean two-thirds of any quorum which a Legislature may happen to have agreed upon; or two-thirds of those present, whether they vote or refrain from voting; or two-thirds of the total number of legislators then enrolled, whether present or absent?"

In considering the second argument against the constitutionality of the Eighteenth Amendment, namely, that a State's legislators may not vote away its sovereign powers unless elected specifically for that purpose, Mr. Petrie observed that "at no time in the history of the United States have the people ever had a chance to express their wishes on national prohibition. The state legislators who voted for the Eighteenth Amendment were not elected for the purpose of expressing the will of their constituents in that regard."

The method of ratification was discussed in the plan of former Mayor John F. Hylan of New York City, a lawyer who included in his draft of a proposed new amendment, to take the place of the Eighteenth Amendment, provision that

it may be ratified "by Constitutional Conventions in the several States."

During the period when the ratification of the prohibition amendment was pending, and until the passage of the Volstead Act defining "intoxicating liquors" for the purpose of the Amendment, it was commonly understood that the phrase referred to distilled beverages, or beverages containing over twenty-five per cent. of alcohol by volume. "Liquor," in common usage, means distilled spirits, and "intoxicating liquor" is that which causes intoxication when drunk in any ordinary or normal quantity. Beer, and unfortified wines manifestly do not come under this regular usage of the term.

Christopher G. Kinney, of Chicago, quoted Chief Justice Marshall, the first great interpreter of the Constitution, as saying:

"The government of the United States can claim no powers which are not granted to it by the Constitution; and the powers actually granted must be such as are expressly given or given by necessary implication."

The solution proposed by John M. Gibbons, General Attorney, New York, New Haven & Hartford Railroad, New York, is outlined in the following excerpts from his plan:

. . . "I submit that *the organization of the voting power* of this class (the middle class on the liquor question) offers the means most likely to succeed in any attempt to substitute temperance for prohibition.

"As the most practical Constitutional means of bringing this about I propose the organization of non-partisan one-issue voting groups or 'pressure blocs,' at strategic points in every 'dry' political subdivision, committed to vote for temperance candidates and against prohibition candidates, in every necessary state and legislative district, regardless of all other issues.

"The number, strength and strategical location of the one-issue voting groups proposed should be determined in each political subdivision by the voting strength of the opposition.

"The new groups must be strong enough to wield at least

the balance of political power in all necessary districts, and must do so relentlessly against every prohibition candidate.

"Political sharpshooting must be carried on until the strength of the movement is clearly evident even to profit sharing bosses.

"The power of the pressure bloc system has been demonstrated, both locally and nationally, in connection with many movements, but never more effectively than in the campaign to put prohibition over, when it was resorted to continuously, in all its perfection, by the Anti-Saloon League, to the complete terror of hundreds of candidates in close districts in every State in the Union."

Concerning anti-prohibition and dry States, Stanley Shirk, New York lawyer, submitted some interesting material in his plan. Mr. Shirk, research director of the Moderation League, wrote, in part:

"While the low point of drunkenness in the former 'wet' States was reached in 1920, first year of constitutional prohibition, according to U. S. Census Bureau figures, 1914-1927, yet in the former 'dry' States having some kind of a State-wide dry law before the Eighteenth Amendment was ratified the low point of drunkenness was in 1919, before national prohibition. In other words, in the dry States the increase in drunkenness had already begun in the first year of national prohibition.

"It is particularly noteworthy that in the former dry States, drunkenness has now reached a considerably higher point, with reference to the 1914 level, than it has in the former wet States. Relatively, therefore, the dry States are now in worse condition, as compared with 1914, than are the wet States. President Harding sensed this tendency shortly before his death, when he said in his Denver speech in June, 1923:

" 'It is a significant fact that some States which successfully enforced their own prohibition statutes before the Eighteenth Amendment was adopted have latterly gone backward in this regard.'

"Perhaps one reason for this greater increase in drunkenness in the dry States is that most of these so-called dry States were not really so, but were, in the main, merely restrictive. It is not generally known that bone-dryness is an absolutely new thing in this country. It did not exist at all before 1914, and substantially not at all before 1917, when the Reed Amendment (a Federal Statute), as a war-time measure, made it unlawful to ship intoxicants into dry States. Before the Reed Amendment went into effect on July 1, 1917, it was lawful in almost every dry State for residents to have liquor shipped to them from wet States.

"Many of these dry States also permitted residents to make their own alcoholic beverages. It was, accordingly, the fact that before 1914 all, and before 1917 substantially all, of the dry States were merely partly dry,—the idea being to abolish the saloon, not to force total abstinence on everyone. These semi-dry laws commanded a large public support and respect and accordingly did not cause the resentment which the bone-dry Volstead Act has since aroused. They appear, accordingly, to have worked much better in practice than the more recent bone-dry law."

With these views of the legal fraternity behind us it is well now to note that presumably the general public has only a slight idea of the attempts in Congress at either strengthening or modification of the fundamental prohibition laws of the land. The whole world is aware of the Eighteenth Amendment to the American Constitution, of the much discussed Volstead Act and latterly of the Jones Act, better known as the "Five and Ten" law. Few aside from those directly concerned at Washington realize that since prohibition went into effect in 1920 perhaps 1,000 bills have been introduced in Congress pertaining to liquor regulation.

An inquiry prosecuted at Washington while Congress was taking a recess from its 1929 special Summer session, revealed that at least 300 of these bills had contained proposals for modification. There were almost as many ideas of how to accomplish this modification as there were bills. So in-

dividual members of Congress, at least, have not been so inactive as their constituents may have believed.

It would take a crew of research men a considerable time to unearth the numbers, names and sponsors of all these bills, with their salient proposals, but a resumé of only those measures which were pending on August 1, 1929, is illuminating. It will be found subjoined; the vast majority of the other bills introduced since 1920, whether for or against prohibition, expired in committee.

Among the 500 measures introduced asking for some modification of existing prohibition laws, a large number called for outright repeal. They were sunk without a trace.

In the first eight weeks of the special session of the 71st Congress in 1929, there were introduced in the Senate and House sixteen new measures designed to modify the existing system. Many of the measures would permit manufacture and sale of beer of 2.75 per cent alcoholic content.

These measures were introduced eagerly despite announcement by Republican leaders in control of legislation that the special session would be confined to farm relief and tariff legislation.

Seven of the modification bills were introduced on the opening day of the special session, April 15. No public hearings had been held on any of these bills as this book goes to press, and they will be pending probably until the 71st Congress adjourns.

Representative F. H. La Guardia (R) of New York, introduced two bills, one House Joint Resolution 11, proposing an amendment to the Constitution and the other House Resolution 130, amending the National Prohibition Act to provide:

"That from and after the passage of this act any beverage obtained by the alcoholic fermentation of an infusion or decoction of barley malt, cereals, and hops in drinkable water or by the natural fermentation of apple or other fruit, vegetable, or herb juices containing not more than 2.75 per centum of alcohol by volume may be manufactured, sold, or

transported for sale in original packages for consumption in homes and places other than the place of sale."

Similar bills were filed by the following: H. R. 180, by Representative David J. O'Connell (D) of New York, on April 16; H. R. 737, by Representative John C. Schafer (R) of Wisconsin, on April 16; H. R. 1007, by Representative Hubert H. Peavey (R) of Wisconsin, on April 17; H. R. 1666, by Representative Charles A. Kading (R) of Wisconsin, on April 22; H. R. 2407, by Representative L. C. Dyer, on May 1; H. R. 4133, by Representative Robert H. Clancy (R) of Michigan, on June 19.

Representative La Guardia's proposed amendment to the Constitution of the United States would supplant the present Eighteenth Amendment. He would stipulate that Congress shall have power to regulate the manufacture, sale, import and export of intoxicating beverages, but the right to fix the alcoholic content shall be left to the States.

His constitutional amendment also would provide that Congress shall fix the minimum alcoholic content of non-intoxicating beverages and any State fixing a greater alcoholic content than such minimum shall do so under such laws, rules and regulations as Congress shall make to protect other States adopting the minimum alcoholic content fixed by Congress from importations, sale and traffic of such intoxicating beverages from other States.

Representative O'Connell on April 15 introduced H. R. 163, a bill "to promote temperance in the United States." This measure would repeal the present national prohibition law, prohibit the manufacture and sale of distilled spirits for beverage use under penalty of $100 fine or 30 days in prison, and permit the sale of beer and wine for beverage use.

Mr. O'Connell on April 16 also filed a bill amending the national prohibition act, so as to permit States to allow sale of beer, ale, porter or stout containing not more than four per centum of alcohol by volume, or vinous or fermented liquids commonly known as wine or cider containing not more than ten per centum of alcohol by volume.

Representative Adolph J. Sabath (D) of Illinois, on April 15, introduced H. R. 99, a bill "to promote temperance and reduce crime in the United States." This measure provided for repeal of the National Prohibition Act.

An amendment to the Constitution directing Congress to provide for the manufacture and transportation of intoxicating beverages and for their sale under a system of governmental permits and restrictions, was called for in H. J. Res. 99, filed by Representative Sabath on June 5. Such liquor would not be sold in States having laws against intoxicating liquor.

Representative John J. Cochran (D) of Missouri, on April 18, introduced H. J. Res. 39, proposing an amendment to the Constitution, providing for manufacture and sale of fermented liquor containing not more than three per centum of alcohol by volume, to be consumed from the original packages in homes and other places than the places of sale.

Mr. Cochran on April 18 also introduced H. J. Res. 38, for repeal of the Eighteenth Amendment to the Constitution. Representative Clancy on June 19 filed H. J. Res. 114, for repeal of the Eighteenth Amendment.

Beer of 2.75 per centum alcoholic content is permitted for beverage use under H. R. 1400, introduced by Representative Florian Lampert (R) of Wisconsin, on April 19.

A hearing was held on the Sabath bill, which was House Joint Resolution No. 203 in the 70th Congress, with record printed, and reintroduced in the 71st Congress as No. 99, referred to above. It was expected to reach a vote in the Winter of 1929-1930.

The bill was largely the work of Dr. Frederick W. Buck, whose plan, entered in the Hearst Temperance Contest, is referred to elsewhere.

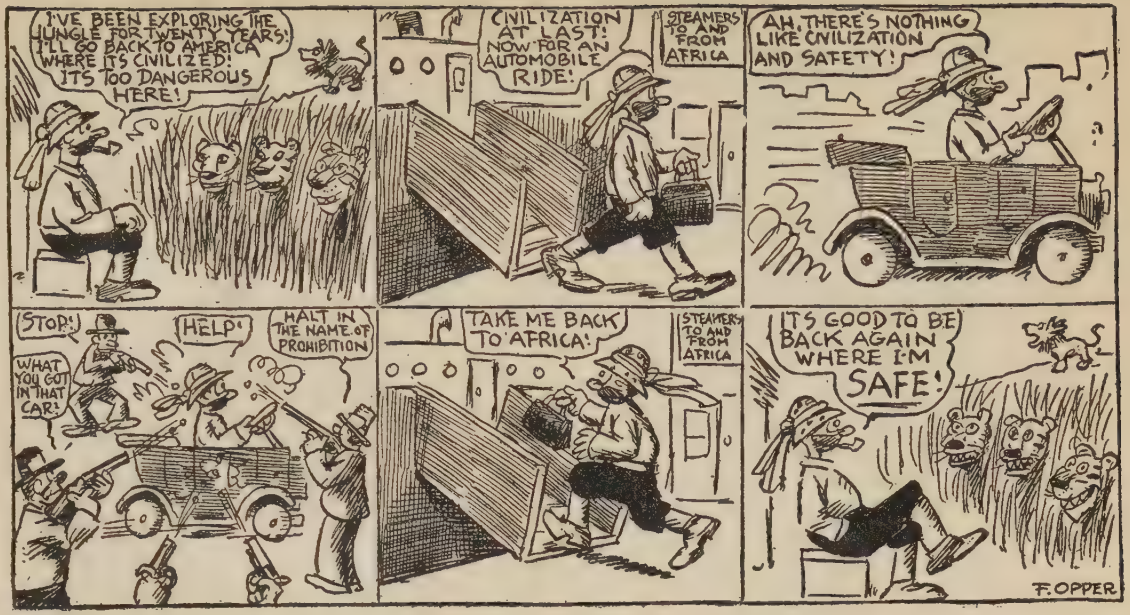
H. J. R. No. 99, approved by many eminent authorities, proposes to amend the Eighteenth Amendment as follows:

"Section 1. After the ratification of this article the manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, the exportation thereof from,

the United States and all territory subject to the jurisdiction thereof for beverage purposes is hereby prohibited, *except as provided in Section 2 of this article.*

"Section 2. Congress shall provide by appropriate legislation for the manufacture and transportation of intoxicating beverages and for the sale thereof in packages under a system of governmental permits and restrictions, and provide penalties for the violation of such laws, permits, and regulations: *Provided, however,* That no such permits shall be issued therefor in any State or Territory whose laws prohibit the manufacture, transportation, or sale of intoxicating beverages; nor in any political subdivision of the United States of America (outside of the District of Columbia), until requested by an act of the legislature or referendum vote of such political subdivision."

If No. 99 is ratified, it is proposed that Congress provide means for establishing dispensaries in States "that vote to have them," whereby "people of voting age" may obtain for home use "not to exceed two quarts of spirits, fifteen of wine and thirty of beer per month" at 100 per cent above cost, and "divide the revenue with the State." With four-year-old whiskey at 75 to 90 cents per quart, wine 50 and beer 20 there will be no demand for bootleggers, proponents of the measure assert.


I'VE BEEN EXPLORING THE JUNGLE FOR TWENTY YEARS! I'LL GO BACK TO AMERICA WHERE ITS CIVILIZED! ITS TOO DANGEROUS HERE!
CIVILIZATION AT LAST! NOW FOR AN AUTOMOBILE RIDE!
STEAMERS TO AND FROM AFRICA
AH, THERE'S NOTHING LIKE CIVILIZATION AND SAFETY!
STOP!
HELP!
HALT IN THE NAME OF PROHIBITION
WHAT YOU GOT IN THAT CAR?
TAKE ME BACK TO AFRICA!
STEAMERS TO AND FROM AFRICA
ITS GOOD TO BE BACK AGAIN WHERE I'M SAFE!
F. OPPER

GOOD OLD AFRICA

CHAPTER VI

INTELLECTUALS AND ALCOHOL

QUOTATIONS taken at random from plans submitted in the great Hearst competition will perhaps best serve to emphasize the myriad-faceted character of the solutions offered. Those chosen for immediate consideration are largely expressions from authors, artists, educators, senators, governors, judges, mayors and other elected officials.

Gouverneur Morris, celebrated novelist, in a plan submitted from La Isla de Cuba, Cal., said:

"The Supreme Court has two great duties: To interpret the Constitution, and to preserve it. And of these the second is the greater. The Eighteenth Amendment was declared constitutional by a vote of five justices to four. Argued again at the end of its ten years of wretched trial, one vote might change. That would be enough.

"We could then promote temperance by making wholesome light wines and beers available at cost and by making spirits an expensive government monopoly for revenue, under such a system as has proved workable and beneficial in Canada.

"But failing in such a decision from the Supreme Court, we must follow toward temperance the very same road that we are, at this moment, contemptuously following. To Americans it is an old and well known road—a long road, a hard road. We have travelled it before. We see no human reason why we should travel it again. But what must be, must."

Mr. Morris, interviewed in the course of the contest, said:

"I am proud to be able to say I am an American in a rather special sense. My family dates with the beginning of the nation. With his own hands, my great-grandfather wrote

the Constitution of the United States. I love America, therefore, with a love that knows no limit.

"Accordingly I am not yet prepared to say that my country is unfit to be lived in. Unfortunately, however, we are rapidly losing this old America. When the death of a human being is cheered in the Congress of the United States—I refer to the regrettable incident in which news of the death of a bootlegger was greeted with applause by some of our legislators—thoughtful Americans must pause to consider the state of the nation.

"We as Americans have accomplished every worthwhile thing that stands to our credit in the history of nations through disobedience of unjust and stupid laws. Disobedience to an odious law gave us the revolution. An attempt by one section of the nation to enforce its opinions on the other was liquidated by our Civil War."

The plan of former United States Senator William Cabell Bruce, Baltimore, Md., combined all the advantages of a highly centralized control and sound local discretion. He proposed:

"Amend the Eighteenth Amendment in such manner as to empower Congress to establish a national system of liquor control, qualified by the principle of local option. Then have Congress create a commission to administer this system, in the name, and for the account of the Federal government, as a monopoly. By this commission alone would spirits for beverage purposes be retailed. . . .

"Regulations as to wine and beer would be more lenient. Wine would be sold without restriction as to quantity in every commission store, and, moreover, a few commission stores would be established exclusively for its sale. A proper number of hotels and restaurants, too, would be licensed to sell wine, purchased from commission stores, to their guests at meals."

Mr. Bruce rejected the idea of repealing the Eighteenth Amendment because such action would "suggest the possibility of a return to the old saloon or of adoption by forty-

eight different States of forty-eight different systems of regulation, instead of an uniform, nation-wide system of regulation by a single central authority."

He realizes that "the desire of public agents to obtain for the public a revenue from drink is a feeble thing in comparison with the covetous eagerness for personal gain which formerly tempted a licensed saloon-keeper to sell to minors, or to adults already under the influence of liquor, and now incites the bootlegger to live in habitual disregard of law, and the prohibition agent to sell himself." Mr. Bruce is known to be an ardent proponent of the Buck plan, H. J. R. No. 99, described at the close of the preceding chapter.

An outstanding plan was that of Dr. Christian Gauss, Dean of Princeton University, and a frequent contributor to the reviews, who wrote:

"Police Commissioner Whalen has declared that there are in New York City alone, some 32,000 speakeasies known to the police. Assuming an average of 30 sales a day, this gives us one million daily violations of the law. It indicates that federal enforcement of a federal law like the Volstead Act is and must remain ineffectual in States manifestly out of sympathy with its prohibition.

"Congress clearly has the power to relax prohibition along certain lines in the interest of obtaining more adequate enforcement along others. This principle is illustrated in the Hughes treaties where ships' stores are allowed to enter American waters in violation of the prohibition, in return for an extended right of seizure. It is also illustrated in our allowing transportation of prohibited beverages through the Panama Canal; and in waiving prohibition in territories like the Philippines, where enforcement would provoke rebellion.

"It is the part of good government to work toward a larger measure of tolerant coöperation."

The estimate of Dean Gauss of thirty sales a day, in a New York speakeasy, at least, would be regarded as an inaccurate computation. The average in most populous neighborhoods would be nearer to thirty sales in as many

minutes, with the speakeasy open twenty-four hours a day, under three eight-hour shifts of bartenders and operating 365 days a year.

At this point, where mention is made of the 32,000 speakeasies in New York City, it is notable that it has been established that protection or "hush" money blackmailed from these illegal and unrestricted drinking places amounts to from $50 to $1,000 per week.

At less than the lower figure, as a general average, a total of $75,000,000 yearly has been estimated as the minimum collected in the five boroughs of the American metropolis. Where this vast sum goes, how it is divided, and how high it reaches is a moot question, but that it far exceeds the graft collected in the palmiest days of the open saloon is beyond all question.

New York speakeasy proprietors frankly admit they would prefer the return of the old days of the licensed saloon, although they would not make so much money. Many of them candidly admit they despise the present game and they keep away from their own resorts as much as possible.

Eye-witnesses of a "raid" in the Times Square section, within stone's throw of Broadway and Forty-second Street, gave this hitherto unpublished account of it:

The "buzzer" rang. Four men gained admittance. Two were police detectives and two were prohibition enforcement agents. At the door, too late, one of the proprietors tried to bar out the invaders. A burly detective, with an oath, struck the speakeasy man a terrific blow on the ear, causing it to bleed profusely. The customers, eight or ten in number, were bidden to sit down at tables on one side of the barroom.

"We are officers," said one of the raiders as he displayed his shield. "All of you sit still and don't make a move," he commanded.

With another man he went behind the bar and placed on its top bottles of Scotch, rye, gin and Bacardi. The partner with the injured ear, trembling, sat down beside a customer and whispered:

"Please take this envelope and hide it. There are round-trip tickets to Bermuda and a thousand dollars in cash in it. If these birds find this envelope I can kiss it good-bye."

The customer, watching his chance, slipped the envelope between the folds of a newspaper on top of the table. The detective approached a moment later and searched the partner, but found only a few loose bills of small denomination in his pockets. They opened the cash register, searched the bartenders, waiters and also a porter just returned from an errand. He had $300 in savings in a waistcoat pocket. He strongly resisted search until advised under threats that the raiders would "knock his block off."

The buzzer rang again. A detective admitted two customers and the other partner-owner of the speakeasy, on whom the door slammed before he could escape. He was the diplomatist-fixer for "the house." He engaged one of the officers in a whispered conversation of five minutes at the bar. It ended in smiles all around.

"Everybody have a drink?" asked an officer of the customers. Everybody would. The tension cleared. The raiders poured three drinks apiece for the customers, not neglecting themselves, in which the two partners joined.

The raid was purely a "shake-down." The partners had been away too much as Broadway playboys, and had neglected certain little financial amenities deemed highly necessary in conducting a New York speakeasy. The raiders went out in high fettle.

This is an actual incident which took place in the late summer of 1928. Incidentally the same speakeasy is still running full blast, as it has for four years. The fixer partner was accidentally killed a few weeks later on a wild automobile ride near Atlantic City—the other is still conducting the business, without slipping up on the necessary amenities.

To continue the great symposium, Rear Admiral James H. Glennon, retired, Forest Hills, N. Y., thought:

"Where there is man there is fire; and where there is civilized man there is alcohol. Both agents are strong agents for

good or evil. Temperance is concerned only with use to good purpose of alcohol as well as fire, and other great agencies of life, even talk."

Chesley W. Jurney, President of the League for the Modification of the Volstead Act, National Press Building, Washington, D. C. wrote:

"Legalize the manufacture of light wine and beer for beverage purposes. Adopt the basic principle of the Canadian system, which is, government distribution.

"Whether you like it or dislike it, the Eighteenth Amendment can neither be repealed nor modified. It is here to stay. Fortunately for our personal liberties, and for temperance, the same result can be accomplished without repealing, modifying or violating the Eighteenth Amendment.

"This is because the Eighteenth Amendment places no limitation whatever on prescription liquor—for medicinal purposes. It places no limitation on light wines and beer for beverage purposes, if such are not intoxicating in fact."

Hugh M. Dorsey, Atlanta, former Governor of Georgia, proposed the creation of a Federal Temperance Commission, specifying:

"The Commission should be vested with absolute and comprehensive power, subject only to our Federal Constitution and Acts of Congress, to control and regulate in the United States, except where such beverages are prohibited by State and local laws, the manufacture, importation, exportation, sale and transportation of all alcoholic beverages.

"In exercising this jurisdiction, the Commission should do so under general rules and regulation, which upon approval by the President of the United States, should have the force and effect of law. A precedent for this character of legislation is found in the Federal Safety Appliance Act."

J. R. Welch, Judge of the Supreme Court of California, San Jose, sees many inherent evils in prohibition laws and comments:

"Never has this democratic government enacted so unpopular, unjust and non-enforceable law as prohibition. Nor,

as results of such law, have so many evils, menacing the very fundamentals of our government, followed in the wake of any law as prohibition; increasing of crime, insanity and drunkenness; flouting and breeding disrespect for laws; corrupting officials; expending untold treasury in futile attempts at enforcement; congesting our court business; and causing international complications. Repeal the Volstead Act."

Lieut. William H. Wenstrom, instructor in English, United States Military Academy, West Point, N. Y., is a proponent of a system of sale by stores licensed by the federal government and of a federal internal revenue tax varying with the alcoholic content of the beverage. Lieutenant Wenstrom does not consider that any of the rationing or control methods employed by other nations is suited to the United States.

On the other hand Phillip W. Henry, noted consulting engineer, No. 111 Broadway, New York, strongly favors the rationing system of liquor control which has been in force in Sweden for the last fifteen years. He believes that Federal control is predicated by the failure of State prohibition:

"Under the Swedish method of liquor control no individual is allowed to purchase for personal use more than 4.2 quarts of hard liquor per month, with no definite limitation on wines and beers. Under this system, from 1913 to 1927 (latest data available) the consumption of liquor per inhabitant was reduced by 37%, the number of arrests for drunkenness decreased by 55%, the cases of chronic alcoholism lessened by 80%, and deaths caused by alcoholism by 85%.

"As against this we have in the United States a marked rise in the number of deaths from alcoholism since 1920, when it was at its minimum. Moreover, the rationing system produces for the Swedish Government a yearly revenue of $30,000,000 which, on the basis of population, is equivalent to $550,000,000 in the United States."

J. J. Keenan, former attorney in the Prohibition Unit of the Internal Revenue Bureau, Washington, advocate of tolerance, wrote:

"In ten years time all fair-minded people have had an opportunity to see what has happened and also to form some opinion as to what is best for the good of all concerned. We have seen that although the law and regulations have been made more stringent each successive year, that the task is today bigger and growing more so every day. Yet, not withstanding this, certain proponents of the law go so far as to urge more severe punishment and extreme measures.

"We are principally concerned with temperance, not enforcement."

Alroy S. Phillips, Pierce Building, St. Louis, Mo., former Federal Prohibition Administrator for the Sixteenth District, sees a means of correcting the evils of the Eighteenth Amendment by calling a constitutional convention:

"All the amendments to date, including the Eighteenth Amendment, were ratified by the State legislatures. Because of the inequalities between districts, legislatures do not always equally represent all the people. Because prohibition directly affects the personal liberties and habits of the people, is sufficient reason for ratifying a substitute by a direct vote.

"Any practical plan for a substitute for prohibition must be based on a modification of the Eighteenth Amendment."

Gabriel Wells, New York City, internationally known collector of rare books, based his plan primarily upon modification of the Volstead Act. He wrote: "I will admit that exempting wine and beer will not result in abstinence from hard drinks. Not at once and never altogether. In the beginning it is even likely to render enforcement more difficult. Admitting all that, are we to sacrifice principle to expediency?"

O. W. Johnson, chairman of the executive committee of the Moderation League of Ohio, which has headquarters in Columbus, submitted a plan based upon the Swedish system. Mr. Johnson, who mentioned that he was a life-time teetotaler, would provide by satisfactory laws and charter a great private corporation with sole power to manufacture, transport and sell all alcoholic beverages in the United States, as

well as amounts, grades and kinds defined by law. . . . "All alcoholic liquors to be sold to public only through dispensaries. . . . Fifty-one per cent of the stock of the corporation to be placed in escrow with the United States Government."

Erskine R. Myer of Denver, counsel for the Moffat Tunnel Commission, strongly advocated adoption of the dispensary system, as did Robert W. B. Terrell, Judge of the Texas 73rd Judicial District, San Antonio, in his plan.

Robert O. Ryder, editor of the *Ohio State Journal,* in his plan discussed the changing attitude toward prohibition. He wrote: "Another evidence of the state and drift of public sentiment in this country is the frantic opposition of the professional drys to anything in the nature of a popular referendum on the question. Such proposed tests they fight bitterly to the last court and then, when the verdict of the referendum goes against them, they belittle the result, declaring that the virtuous people did not vote, and similar nonsense. A complete national referendum . . . is practically impossible as long as Congress is under the domination of the Anti-Saloon League."

Mr. Ryder believes that State referenda are the only solution, although he observes that such a method is comparable to wearing away a stone with drops of water.

Among the comparative few who advocated the return of the saloon was W. H. Snedeker, Jermyn, Pa., who submitted a plan on the letterhead of the Woman's Christian Temperance Union, of which Mrs. Bertha Snedeker is president. Mr. Snedeker's liberal proposal is that "nothing be sold in bottles, only by the drink. All barrooms to open at eight in the morning and to close at twelve midnight."

Edward C. Sturges, Deputy Commissioner State Department of Taxation and Finance, Albany, N. Y., said "we should recognize at the outset that we cannot return to State control." He advocated "changing the mandatory and concurrent features to a grant of power to a single legislative body—Congress—thereby avoiding all overlapping and con-

flicting statutory enactments. Permitting Congress to delegate executive and judicial (but not legislative) powers to the states. Granting Congress power to refer specific questions to direct vote of the people. Avoiding all revenue producing and 'high license' features which so largely contributed to the adoption of prohibition."

Shaemas O'Sheel, critic and poet, referred to the psychological aspect of the problem. He wrote: "Alcohol, as Cardinal Gibbons said, is one of God's creatures. All of the arts, the glory of aspiring humanity, owe some of their masterpieces to alcohol. Properly used, it increases receptivity to the arts, to knowledge, to the ethical principles which are rooted in good will, love and charity. Properly used, it binds friendships and knits the domestic circle.

"But alcohol is a dangerous, a treacherous servant. Taken in excess, it deranges the delicate nervous system by which a man is integrated and coördinated; puts the muscles beyond control of the mind; clouds the intellect and dethrones reason; transforms a man of intelligence into a fool, and a man of good will into a brute. It leads easily to crime, tragedy and death.

"These things have been known to mankind for ages. They are part of universal human lore.

"Therefore men and women will never cease to drink alcohol, because of the comfort, exhilaration and inspiration it gives. No law can reach deep enough to root out this human need, no threats and penalties prevent its satisfaction.

"And equally therefore, intelligent men and women will never cease the effort to restrict alcoholic consumption to its proper uses, to restrain excess, to prevent abuse.

"But never, except within the realm of Islam, where the prohibition was uttered fourteen centuries ago—and has been evaded ever since—was a major attempt made to guard against the perils of alcohol by wholly forbidding its use as a beverage, until the Eighteenth Amendment and the Volstead Act were made the law of these United States.

"We must face the fact that drinking is natural and ineradicable.

"We must grasp the fact that openness is the great fundamental safeguard of temperance.

"We must undo or ignore the Eighteenth Amendment, repeal the Volstead and Jones laws. We must permit drinking, but only in the open. No more bars, swinging doors, backrooms, speakeasies. We must not tax the liquor trade so heavily as to tempt it to evasion."

A sane means of promoting temperance is suggested by William Piel, President of Piel Bros. Inc., one of the oldest and largest of New York's brewing establishments, who sees in low alcoholic content beer a solution of the present prohibition evils. He believes much can be accomplished by:

"1. Modification and supplementing of the Volstead Act by a congressional enabling act, sanctioning concurring State's legalization of State licensed manufacture and sale, as non-intoxicating in fact, of beverages of alcoholic content not exceeding three and three-fourths per cent by volume, under low revenue-purpose excise tax.

"Legalize inexpensive, socially satisfying non-intoxicants, (beer and alcohol-checked fruit juices), as antidotes for booze, home-brew and home-still products."

M. Carbone, No. 173 West Eighty-eighth Street, New York, President of the Georgia Vineyard Company, has been interested in the grape growing and wine producing industry for twenty years and his conclusions are:

"Since over 125,000,000 gallons of wine are made yearly (in the United States) it would be useless and absurd to legalize only wine and beer, as conditions would remain as they are at present regarding hard liquor.

"The great majority of us are law-abiding, orderly people, who are willing to coöperate in worthy, sane regulations beneficial to their fellowmen. Our people are only patronizing the bootleggers because they have no other means left open. They would immediately cease such practice were a fair allotment of decent liquor made available in a legitimate way, thus immediately eliminating the bootlegger.

"Modify the Volstead Act so as to define intoxicants in fact. The total quantity of alcoholic beverages sold to one adult during one month should be . . . the equivalent of one and three-fourths gallons of absolute alcohol."

Rockwell Kent, Au Sable Forks, N. Y., eminent artist who is known as an author and explorer as well, wrote before sailing for Greenland on his 1929 expedition:

"The evils of prohibition are: first, that it infringes on the liberty of many citizens whose use of liquor does not constitute a public problem; second, and consequently, that it leads to the general disrespect of the law; third, that it has bred a numerous and thriving class of professional lawbreakers; fourth, the high cost to the public through the loss of public revenue and the cost of attempted enforcement. As a result, thoughtful men and women have come to feel that a reconsideration of the problem is demanded."

Former Congressman T. W. Phillips, Jr., President of the T. W. Phillips Oil & Gas Company, Butler, Pa., in his plan suggested:

"The prohibition amendment and the enforcement laws relating thereto could hardly have been more cleverly drawn had their avowed purpose been to promote graft, encourage blackmail and induce the substitution of hard liquors for mild and comparatively harmless beverages.

"The Eighteenth Amendment does not 'insure domestic tranquillity' nor 'promote the general welfare,' nor 'secure the blessings of liberty,' and must, therefore, go or be forgotten like several other amendments that were not enforceable."

The Deputy Secretary of Agriculture for the State of Pennsylvania, Raymond G. Bressler, suggested that were his plan adopted and were alcoholic beverages to be sold under strict governmental supervision:

"Additional markets, the greatest need of agriculture, would be created for the farmer. Millions of acres that once produced crops for beverage purposes now produce food products in competition with other food producing acres.

When prohibition went into effect, the State of Iowa could have ceased producing agricultural products without materially affecting the food-supply, so great was the acreage change from beverage-producing acres to food-producing acres."

Mr. Bressler, advocating modification of the Volstead Act rather than futile attempts to repeal the Amendment, asserted: "Constitutional prohibition is a settled question. As long as the vote of a citizen of one State, in decisions affecting the Constitution, is worth 134 times the vote of a citizen of another State, a repeal of the Eighteenth Amendment is impracticable. An overwhelming majority favoring repeal would not guarantee a repeal. A general vote might only fan the rising flame of sectional, or more correctly, bloc prejudice, due largely to prohibition enactments."

Commander J. S. McCain, Bureau of Navigation, Washington, D. C., offers the following solution:

"Repeal Federal laws prohibiting, restricting, hindering, or taxing traffic in alcoholic liquors; also repeal similar laws in states wherein public opinion is sufficiently enlightened, and without cessation, agitate and educate for like action in backward states."

Lieut.-Col. Harold Hartney, Great Neck, Long Island, N. Y., Air Force Reserves, comes to the conclusion that:

"Ten years of experiment finds us one and all ready to stand on common ground and agree that temperance or moderation would be a fine thing. We are willing to concede that we have made mistakes. We find ourselves one and all prone to readjust our views and ready to get behind a leader."

Brigadier General E. A. Wood, No. 14 De Vere Gardens, Kensington, W. 8, London, England, says:

"By one stroke of the pen your government should repeal the prohibition law now on the statute books. Tried for ten years it has proved a ghastly failure and a very costly one in human lives. It has enriched with millions of money the leaders of the underworld. This must cease."

Among the many West Point graduates who participated

in the contest was Martin H. Ray, New York, Inspector-General, United States Army, in the World War. He traced the development of the existent situation in the introductory paragraphs of his plan:

"In 1919, citizens of a liberty loving nation, by ratifying the Eighteenth Amendment, made a contract with their public officials for further protection against intemperance.

"Shortly thereafter, a vast number of these same temperate citizens came to realize that, in the making of this contract, there was no true 'meeting of the minds.'

"They had logically assumed that the interpretative and enforcing action taken by the party of the second part would be exercised within the bounds of the contract and in accordance with co-existing contractual relations.

"The difference of opinion among eminent judges subsequently strengthened the voter in his belief that he had bought one thing and received in its stead a questionable substitute.

"The Eighteenth Amendment was acceptable to the majority who neither practiced nor favored intoxication. The never-intoxicated citizen, reading the proposed Amendment, was assured that the presence of the limiting word 'intoxicating' left his personal freedom unimpaired. He was also justified in thinking that the words 'concurrent jurisdiction' recognized the rights of his State.

"However the drastic Volstead Act added extraneous matter to this contract. The Amendment, while prohibiting intoxicating beverages, specifically refrained from banning other alcoholic beverages. The Act, therefore, oversteps the goal, and deliberately violates the intent of many who voted for the Amendment.

"There can be no true respect for law until the spirit of the regulation is in accord with the spirit of the people. Therein lies the basis for the present discontent, resentment, defiance and revolt. When decent people condone disreputable bootlegging, the strictly temperate citizen becomes the butt of the nation, and the attainment of true temperance is seriously postponed.

"To avoid conviction of carelessness or even sharp practice in the execution of this contract, the Congress must permit beers and other light alcoholic beverages in those States where they are not otherwise prohibited."

Phelps Phelps, New York City, formerly a Republican State assemblyman and exceedingly active in politics, submitted a noteworthy plan for modification. It is Mr. Phelps' belief that "economic laws, like religious convictions, are above and beyond the reach of legislative assemblies." He adds:

"The laws of demand and supply create the speakeasies and the bootleggers, and they will continue to exist so long as they are profitable, no matter what strenuous measures of force are employed to get rid of them."

W. Stanley Child, Oneida, N. Y., retired editor and publisher of the *Oneida Daily Dispatch,* calmly surveyed the situation:

"Liquor is as old as the world. It is a product of nature. Like food, water, coffee and tobacco, a necessary element of modern medicine, manufacture, science and art. It is part of man's inheritance from Mother Earth. The demand never ceases. When a pure product is prohibited, or cost seems excessive, substitutes are easily invented. The government's duty, therefore, is to control and direct the liquor industry into temperate and useful channels."

Hugh Gilmore, former Mayor of Williamsport, Pa., sees in the government control of liquor a great blessing for the working man. It would, he instances, create a demand for bricklayers to build breweries, garages and other structures; for motor manufacturers to produce trucks for the transportation of liquor. The printer would be busy printing labels and wrappers for bottles; truck drivers, clerks and telephone operators would be given employment; village post offices would be required to take on additional help, and farmers would require hands for the harvesting of grain necessary for the manufacture of alcoholic beverages.

Myron H. Bent, Washington correspondent of the *Brooklyn Daily Times,* was of the opinion:

"It is time for the plain people to do a little straight thinking on their own account and disregard the extremists on both sides. It is time to end this prohibition nightmare and great national hypocrisy.

"If the American people have neither the power nor ability nor the inclination to extricate themselves from the predicament in which they find themselves enveloped by prohibition in a sane, sober, intelligent and orderly manner, then they are incapable of self government and democracy is a failure."

R. E. Gosnell, press representative, House of Commons, Ottawa, Canada, gives his view:

"A sane code for the regulation and sale of alcoholic beverages must be based upon sound moral, physical, and economic considerations, all of which have been set aside in the agitation for and in the operation of the Volstead Act.

"The remedy obviously is to permit brewing and distilling under the jurisdiction and supervision of the federal authorities."

Benjamin L. De Wees, Department of Social Science, Washington State Normal School, Ellensburg, Wash., felt that:

"The constitutional right to seek modification of our basic law must be seized upon as the only honorable way to achieve temperance."

B. H. Belknap, instructor in Cornell University, observed:

"Prohibition is not succeeding in bringing about temperance, and whatever successes there are seem all too costly in the destruction of respect for law, persons, property and self.

"To meet the situation it is proposed to provide beer, wines, and distilled liquors by private corporations under control of government officials."

For five years a federal prosecuting attorney in charge of prohibition enforcement, Frank O. Chavez of the Department of Justice, Shreveport, La., submitted:

"Prohibition is not susceptible of enforcement, for it breeds, and thrives with, hypocrisy, suspicion, bootleggers,

crime, a debauched womanhood, graft among the politically powerful, and a contemptuous disrespect for law and order. It is a farcical failure in the United States, and has been a failure wherever tried, abandoned for either part prohibition or government control of liquor.

"The Province of Quebec, Canada, since government control of liquor, has had a decrease in crime and drunkenness, whereas both have been on the increase in the United States since prohibition."

Frank J. Payne, No. 7360, Southern Illinois Penitentiary, Menard, Ill., felt that:

"Right now is the time to start the move that will eventually wipe out the stain that has grievously depleted our treasury, filled to overflowing our jails and penitentiaries, has killed and maimed thousands, and has direfully polluted our universities and public schools."

Chinese views on prohibition came from all parts of the world, including the Celestial land itself. A notable contribution was that of Chao-Wei Liang, Johns Hopkins University, Baltimore, President of the Chinese Students' Alliance in the United States:

" . . . The more effective government enforcement is, the worse the state of things will be. Such being the case, the best thing . . . to do is to repeal all these (enforcement) laws. Liquor drinking in itself is not a bad thing; to drink moderately does no harm."

Pao H. Chu, No. 500 West 125th Street, New York, believed that:

"Repressive and preventive measures are bound to fail, because drinking habits once acquired are hard to ward off. Prohibition has been tried and has failed. It is, then, high time for the government to adopt other alternatives whereby actual temperance conditions may be obtained."

Kin Ho Cheung, No. 59 Mott Street, New York, wrote:

"My observation in both China and this country has convinced me that the liquor problem will solve itself when the people are properly educated. Temperance can be secured

without prohibition. Prohibition as it exists is not only a lamentable failure as a temperance measure but breeds crime."

Yongjeung Kim, No. 2190 West Avenue, Pasadena, Cal., observed that:

"The Volstead Act lost the respect and coöperation of the people by violating the fundamentals of American psychology. An American may be induced to do much, but he cannot be coerced to do anything.

"An adjustmental and regulatory plan is needed. Congress should repeal the Volstead Act."

Capt. J. Thomas Schneider, A.B., LL.B., Instructor of Law, United States Military Academy, West Point, New York, wastes few words in deciding that:

"The Eighteenth Amendment and enforcement legislation have proven pernicious in effect upon personal liberties and American principles of government. The result has lessened respect for law as law. The Amendment should be repealed."

Rex Maurice Naylor, Instructor in History, New York University, believes:

"As far as temperance is concerned, the present legislation is an actual hindrance to its achievement. I believe it is partly, if not wholly, responsible for the increased consumption of liquor by minors and for the present crime wave."

Samuel H. Cross, Harvard University instructor, Cambridge, Mass., found:

"The existing system, because of the disrespect for law which it inspires, is a menace both to society and to the orderly processes of government. No restrictions should be placed on the sale of wines and malt liquors generally."

The proposal of Col. James W. Byrnes, President of the Byrnes Belting Company, St. Louis, Mo., was:

"Amend the Eighteenth Amendment to permit manufacture, sale, transportation and purchase, under government license, of liquors, wines and beers for beverage purposes of greater alcoholic content than one half of one per cent.

"Repeal all Federal legislation heretofore enacted with respect to liquors, wines and beers for beverage purposes."

Rear Admiral W. W. Kimball, U. S. N., retired, suggested:

"The way to lessen contempt for law is to make law less contemptible. Let all societies and associations for the support of the Constitution combine to authorize a National Conventional Committee to direct the fight for revision of the Constitution in the coming Congressional election campaign of 1930."

The attitude of Phillip Powers, Dean of San Benito Junior College, Hollister, Cal., is summarized in his statement: "It is evident that any plan of temperance that does not provide for the repeal of the Eighteenth Amendment is impractical. The Amendment, therefore, must be repealed."

Professor Franklin E. Poindexter, Director of Research in Physics, St. Louis University, St. Louis, Mo., would end the warfare:

"Congress should pass an Act permitting each State to define at stated intervals what shall be deemed an intoxicating beverage within its own borders."

From the great pharmaceutical house, E. R. Squibb & Sons, came the suggestion of Walter G. Christiansen, Assistant to the General Superintendent:

"A permanent solution to the liquor problem should be undertaken by the government in the form of an extensive educational program to establish the correct use of alcohol. Simultaneously beverages of from 7 to 10% alcoholic content should be legalized and offered to the public at a low figure."

An outstanding plan was contributed by Robert M. Davis, editor, McGraw-Hill Publishing Company, New York City, and member of President Hoover's Advisory Committee on Manufactures. He wrote:

"The general public wants temperance—there can be no doubt of that. It was with that thought that the Eighteenth Amendment was passed, but beyond that point they do not wish to go, nor will they go.

"Immediate study, therefore, should be concentrated on the

acts defining the Eighteenth Amendment. That is, what shall be the alcoholic content of legalized liquors? Such a study should be conducted by a sub-committee of the Hoover Law Enforcement Commission composed of physicians, scientists and welfare workers. Their studies should embrace the following:

a. Physiological effects of present alcoholic content
b. Physiological effects of pre-prohibition alcoholic content
c. Alcoholic content in foreign countries
d. Determination of alcoholic content which will permit the consumption of non-injurious alcoholic liquors, but which will prohibit the lawful use of injurious alcoholic liquors—that is, temperance
e. Distribution of high-content alcoholic liquors for medical purposes
f. Temperance and general well-being

"The public today is thinking in terms of temperance—in work, in play, in sleep, in eating. This is not the day of the bigot, the Puritan, nor the fanatic. The public demands that it be allowed to enjoy those rights of freedom in thought and action which were set forth in the Constitution—rights which are theirs in so far as they do not transgress the welfare of others. Any reform which meets these conditions will receive the support of the American people, and any reform which transgresses those rights will be resisted to the utmost"

CHAPTER VII

OTHERS WHO KNOW

A GREAT public school, No. 114, on the teeming lower East Side of New York, has 4,000 pupils. Its principal, Professor Joseph T. Griffin, interposed the question in the heat of the contest:

"If a dry ship can have liquor as part of its medical stores, why cannot a respectable home have the same privilege?

"The dry enactors who will exclaim about permitting liquor in the homes of our people, may be answered truthfully that this plan will assuredly take gin out of the bathtubs, beer out of the washtubs, the stills out of the cellars, in millions of homes and help vastly to remove hatred and hypocrisy from the heart of our nation."

Professor Griffin submitted one of the most original and most unusual plans in the entire contest. It would make physicians the guardians of liquor consumption, the doctors themselves to be licensed in this respect by local boards of health. His plan went on to say:

"I propose that restrictions on the use of alcoholic liquids for medicinal purposes be revised in the following particulars:—

"I. That doctors be permitted to issue to the head of a household, in the sense that that term is used in the income tax reports, a permit to purchase alcoholic liquids, in quantities determined by the local health authorities. These purchases must be made from certified dealers and are not to be consumed on the premises.

"II. That the quality of such liquors, ales, beers, or wines

I DON'T INTEND TO READ IT! I'M AGIN ANY THING THAT'S AGIN PROHIBITION
READ
JUDGE HOYT'S
$25,000 PRIZE WINNING ANSWER
TO THE
MOST PRESSING PROBLEM
BEFORE THE PEOPLE—
PROHIBITION
IN THE
NATION WIDE TEMPERANCE CONTEST
I DON'T WANT TO READ, SEE OR HEAR ANY-THING AGIN PROHIBITION !!
WINSOR McCAY

NONE SO BLIND AS THOSE WHO WILL NOT SEE

Representative Cramton, Michigan, is listed with the Anti-Saloon League as an ardent Prohibitionist. He was asked if he had read the prize winning plan of Judge Hoyt.
He replied: "You can quote me as saying that WITHOUT READING the plan, I'm AGAINST it."

be subject to the supervision of the local board of health authorities according to the provisions of the Pure Food Law.

"III. That the maximum prices of such alcoholic liquids be fixed by local board of health authorities.

"IV. That the dealers authorized to dispense those liquors for medicinal purposes must:—

"(*a*) Be granted a permit by the Government.

"(*b*) That a license fee shall be paid to the Federal government.

"(*c*) That the holder of such license shall be covered by a security bond which shall provide for its immediate forfeiture in case the law be violated."

He defended his plan in these words:

"Modern pathological researches have established the fact that drunkenness is an affliction which attacks those of unsound physical, or unstable mental constitution. This plan may not eliminate the drunkards of a community, but it should deprive them of the privilege of purchasing alcohol legitimately."

Louis F. Hail, United States Commissioner, Niagara Falls, N. Y., would amend the Eighteenth Amendment to read:

"After one year from the ratification of this article the manufacture, sale, transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and its territories for beverage purposes is hereby prohibited, except under the supervision and control of the Federal government."

Clifford R. Allen, president of the Home Life Insurance Company, Vermont Avenue, Washington, D. C., says:

"Fundamentally, the Eighteenth Amendment has from its inception challenged plain common sense, and the time-worn truth that a law unsupported, in both spirit and practice, by a very large majority of the people in all sections of the area affected is unwise and impractical of enforcement."

Cyrus F. Wicker, associate professor of international law, University of Miami, Coral Gables, Fla., submitted that:

"With attractive surroundings taking the place of the old-time saloon; with pure wholesome beverages available at varying prices and limited amounts, for consumption in public or in smaller quantities for home use; with public opinion turned encouragingly toward the study, understanding and appreciation of the entire temperance movement, under the guidance, administration and control of a department of the Federal government, the enlightened conscience and will of the community acting upon and through the individual may be counted upon to curb intemperance and to preserve for the American people the benefits of temperate living and reasonable human enjoyment."

The Rev. Dr. C. L. Orbach, publisher of the *Daily Slovak-American,* New York, advocated government control of liquor:

"Empower and authorize the government of the United States to handle and manage the manufacture and sale of liquors. We may trust the government to foster temperance and eliminate the evils of so-called prohibition."

In the opinion of Warren Wimpey, Woolworth Building, New York:

"The Eighteenth Amendment, adopted during the war hysteria by legislatures, under duress of an organized minority led by fanatics, and then nullified by a majority of the people, should be repealed."

Dr. J. E. Acker, No. 551 West One Hundred Forty-ninth Street, New York, humanitarian and writer, attacked prohibition with:

"The insecurity of life and health due to the sale of poison liquor; the shooting of innocent citizens by over-zealous officials, and the many other indignities infringing on our liberty, offer greater provocation for justifiable executive action than the acts of Germany which prompted President Wilson to declare war. Every member of the Cabinet ought to rise up in disgust."

The plan of Col. John H. Parker, U. S. A., retired, Laytonville, Cal., alluded to abuses of personal liberty:

"Invasion of the home without warrant; confiscation of property without process of law; employment of spies; killing of unarmed women in their homes in the name of enforcement, justify at least a lawful appeal to the court of last resort to learn whether the Eighteenth Amendment and its dependent legislation constitute a repeal or nullification of the Constitution adopted by our fathers, or whether they are merely an abortive attempt at such action."

The plan of Glen E. Hoover, associate professor of economics and sociology, Mills College, Cal., is summarized by his statement:

"The Volstead Act and the Eighteenth Amendment should be repealed, and Congress should prohibit the transportation of liquor into States which wish to retain prohibition. The States could then profit from the experience of the world and would no longer be confined within the strait-jacket of a constitutional provision adopted in a period of war-time hysteria."

Horace Atkinson, No. 1430 E Street, N.W., Washington, D. C., averred:

"I can go to the Capitol, and under its very roof buy anything from a 'shot' to a case. I defy any member of Congress to 'take me up' on this proposition, if he will buy the drinks; and the first I will start on is the statesman who daily has himself chased 'around the block' by the Catholic Church and the Pope of Rome.

"The way to repeal an obnoxious law is to enforce it; but even this remedy is denied us because this obnoxious law is unenforceable."

Clarence M. Day, C.P.A., No. 225 Broadway, New York, said:

"Amend the Constitution by eliminating the Eighteenth Amendment from our fundamental law. It is not consistent with the Constitution and is no more part of our sacred law than a wooden shack added to the Great Mosque of Delhi would be accepted as a part of that beautiful temple and revered."

Former County Court Judge M. J. Galligan, Pueblo, Col., believing that the Eighteenth Amendment is unconstitutional, stated:

"Prohibition is un-American, fanatical, intolerant and demoralizing, also dishonest in its definition of intoxicants. Prohibitionists would set up a government of prohibitionists, for prohibitionists, by prohibitionists. Prohibition destroys free men in an attempt to rescue frail men.

"Ignore the Eighteenth Amendment. It is not self-enforcing and does not provide for either fine or penalty for its violation. It is null and void because it was not adopted legally."

Former Congressman George W. Rauch, president of The Davis Records Company, Marion, Ind., offered:

"I was a member of Congress from 1907 to 1917. I saw prohibition rise to the peak of its tremendous power and yet remain impotent to enforce its decrees. It is beginning to crumble. We must not permit the cause of temperance to be smothered under the ruins of this once mighty structure. . . . Surely if we cannot prohibit liquor, it is our duty to attempt a sane and limited use of liquor."

Sir Roger Williams, K.C.B., New York, observed:

"Prohibition is dulling the moral consciences of the nation. The bigots hate to admit defeat and rather than see their pet theories put to rout by common sense, they would rather see the whole nation go to perdition.

"Prohibition defeats temperance and then commits suicide. The more strongly the law is enforced, the more it outrages the feelings of a supposedly free people . . . and instills in them a desire to overthrow this tyranny."

Wilbur H. Close, No. 1514 Seventeenth Street, N.W., Washington, D. C., believes:

"That alcoholic beverages, of deadly character, are now being sold and consumed practically everywhere, to the probable everlasting damnation of many of the younger generation who, under pre-existing conditions, would never have thought of drinking it.

"It is within the power of Congress to repeal or amend the Volstead Act and prescribe what may, by it, be determined as a reasonable alcoholic content for beverages that can be dispensed legally."

George Westervelt, Secretary of the Voluntary Committee of Lawyers, Inc., New York City, observed:

"The prohibition problem has been made the football of politics. No reasonable or constructive solution of the problem can be looked for from politicians. They do not desire to solve it, and they could not if they would. It must, therefore, be taken out of politics, and out of the hands of the politicians and put into the hands of the people themselves.

"We must necessarily repeal the Eighteenth Amendment before putting anything in its place."

Joseph B. David, Judge of the Superior Court, Cook County, Ill., stated that the repeal of the Eighteenth Amendment was a prerequisite:

"A plan to achieve temperance in the use of intoxicating liquors for beverage purposes as a substitute for prohibition of necessity must include the repeal of the Eighteenth Amendment of the Constitution of the United States.

"Such a plan must then include legal enactments that will not only provide for temperance but will also fully comply with the demands of millions of our citizens who, though not in sympathy with prohibition, are determined that the intolerable conditions that existed prior to the passage of the Eighteenth Amendment shall never again be inflicted upon us."

Oliver E. Pagan, Special Assistant to the Attorney General, Washington, D. C., would alter the views of the drys by presenting indisputable facts against prohibition. He suggested:

"Alter their views by collecting facts, according to some scientific plan, the efficiency and reliability of which cannot be reasonably questioned, . . . from which thinking persons must conclude that mistakes have been made in the calculations at least of those supporters of prohibition who do

not make a living at it, arising from unhappily ignoring certain principles underlying the business of legislating, and failing to consider the psychological elements of the problem. So that, instead of the results expected by them, quite contrary results have been achieved by prohibition. . . . Intemperance has in fact been enormously increased by it."

Dr. John Altherr, No. 207 East 25th Street, New York, former member of the bar of Switzerland and author of various works on political science, alluded to the origin of Mohammedan prohibitory laws:

"Prohibition is not a Christian but Mohammedan principle, and even Mohammed, the founder, in accord with the Bible in which he believed in earlier times, drank wine until his 44th year, at which date an unhappy love affair made him a bigoted prohibitionist.

". . . Repeal the Eighteenth Amendment and all other laws concerning the Amendment."

Col. H. K. Taylor, Key West Barracks, Key West, Fla., would "repeal the Eighteenth Amendment and all acts for its enforcement. Enact sane laws imposing a reasonable duty on importation of and tax on the manufacture of intoxicating liquors."

Dr. E. G. Kyte, Detroit, Department of Medical Service, Parke, Davis & Company, world's largest manufacturers of drugs, advocates the return of liquor for the sake of temperance and says:

"Restore beer and wines and seventy-five percent of the ills of prohibition will be automatically handled. Let the State be sovereign again—assist terribly high taxation to return to normal—promote temperance by reasonable control of alcoholic liquors."

Gerald Oppenheim, Rochester, N. Y., assistant manager for the Metropolitan Life Insurance Company, said in his letter of transmittal:

"I come in contact with hundreds of people every month, in various places of business, and therefore have an excellent opportunity of finding out what the average man really

wants. He doesn't want prohibition. He doesn't want bootlegging. He merely wants to be allowed to purchase a reasonable amount of beer, wine and whiskey, and to be allowed in so doing to remain a law-abiding citizen."

Mr. Oppenheim advocated the appointment of liquor control boards.

John D. Meyer, Pittsburgh, United States Attorney for the Western District of Pennsylvania, saw a simple remedy. He asserted his belief that:

"If the Eighteenth Amendment were changed so as to authorize legislation by Congress, allowing people to make beer and wine in their homes under government supervision and control, then the principal criticism of the present legislation would be removed."

Wade A. Bortle, No. 921 Cherry Street, Kansas City, Mo., former Special Agent, Division of Special Agents, Bureau of Prohibition, would teach the value of temperance:

"With public sentiment anything can succeed, and inasmuch as it is conceded that every fair-minded citizen appreciates the full value of temperance, the problem of teaching its merits and its rewards should be, in addition to a duty, a pleasure and privilege of our government.

". . . Create an agency to function within the administrative jurisdiction of the United States Department of Commerce, a division to be known as the Bureau of Liquor Control. This unit will be charged with the supervision of manufacture, transportation and sale of all alcoholic liquors, under such regulations as shall be adopted and applied."

Major Chester P. Mills, former Prohibition Administrator, Metropolitan District, New York, was the winner of the $25,000 prize in the recent W. C. Durant contest "for the best and most practicable plan to make the Eighteenth Amendment effective."

The plan which Major Mills entered in the Hearst Temperance contest embodied the primary proposal "that for the year 1932 Prohibition be given a fair trial. That, coin-

cident with the national election in 1932 there be a popular referendum for the repeal or retention of the Eighteenth Amendment. That the President of the United States at once appoint a non-sectarian committee of representative citizens representing both the "wet" and the "dry" element. The duties of this committee would be:

"1. During the interim prior to January 1, 1932, by education and propaganda, urge the entire population to observe the Prohibition laws for the year 1932.

"2. To secure the backing of all newspapers and periodicals to the end that they will, by reading notices and editorials, support the aims of the committee and continue throughout the year 1932, giving the law a fair trial without in any way embarrassing their position as to repeal or retention."

Dr. Joseph Jastrow, eminent psychologist, for many years professor of psychology at the University of Wisconsin, past president of the American Psychological Association and prolific writer on psychological subjects:

"I take pleasure in expressing my cordial approval of Mr. Hearst's offer of a prize for the best temperance plan.

"The assumption that prohibition is the best means to regulate the consumption of alcohol has no scientific justification, and you cannot change this by legal enaction. On the contrary, prohibition is a psychologically unsound method when applied to the general desire for indulgence which the mild use of alcohol provides. We have abundant evidence that the use of mild alcoholic beverages, far from being injurious, is moderately helpful, although many persons can do perfectly well without it.

"I feel justified in expressing this opinion because I now find myself one of the few who placed himself on record before the prohibition movement in a volume called 'The Psychology of Conviction' published in 1918. It contains an article on the 'Psychology of Indulgence' including both alcohol and tobacco, which was written before our attempt to enforce prohibition.

". . . It is incredible that anyone should call this a 'noble experiment,' first because its nobility is certainly questionable in view of its actual effect; and to regard the Constitution as a place for experimental venture seems amazing.

". . . I am still among those who believe that the Eighteenth Amendment is in essence unconstitutional, and this argument has been presented in a convincing manner by Mr. Johnston in an article in the *Century Magazine*. (Henry Alan Johnston, a participant in the Hearst Temperance Contest.—Editor's Note.)

". . . I should anticipate that as soon as it is no longer of political value to a candidate for office to declare himself a 'dry,' whatever his principles or practice, we shall have a fairer declaration of actual opinion in the political field."

In the list of citizens who unassisted have done most to bring home to their countrymen the necessity for anti-prohibition measures, no name shines brighter than that of E. Clemens Horst, of No. 235 Pine Street, San Francisco. Mr. Horst, who is one of America's wealthiest agriculturists, with more than 8,500 acres under intensive cultivation in California, has for many years given generously of his time and private funds in gathering dependable facts and figures upon which to base sound arguments for reform.

Mr. Horst's plan was an outstanding entry in the Hearst Temperance Contest. In a prefatory paragraph he summarized his proposals:

"Convince the public that Congress is empowered to enact legislation:

"(*a*) that will restore to each State jurisdiction over the handling of liquors now prohibited;

"(*b*) that will permit the Federal Government to tax any beverage at any rate it may determine upon;

"(*c*) that will prohibit saloons;

"(*d*) that will place any restriction upon manufacture, sale, transportation, that Congress may see fit to impose;

"(*e*) that will prohibit beverage shipments from wet to dry States;

"(*f*) that will not risk reversal by the Supreme Court or nullification by Federal Court injunctions."

Mr. Horst, who strongly advocates some form of referendum, wrote:

"Although no referendum of the people is legally binding upon Congress, yet a nation-wide referendum honestly taken should, and undoubtedly would, influence Congress in its deliberations and conclusions. The following is one of the many ways by which a referendum of the American people can be taken:

"Any member of Congress can hold a referendum of the voters of his own district or of any and every other Congressional district of the United States. He may use his United States Government franking privileges for that purpose. Similarly, every United States Senator may hold such a referendum of all the voters of his State and any and all other States. The voters' lists for every Congressional district are easily available to everybody."

Mr. Horst's plan, in addition to various proposals, contained a statement of facts inescapable, if not inexplicable. Thus he wrote:

"Congress has extended prohibition to include beverages that are admittedly non-intoxicating although the Eighteenth Amendment prohibits only those that are intoxicating.

"Congress has exempted the Panama Canal and Railroad and also the Philippines from the Eighteenth Amendment, although the Eighteenth Amendment includes them.

"The treaty-making power, which comprises the President of the United States and the United States Senate has made and ratified foreign treaties which in effect permit all foreign vessels to import into, transport within and export out of the United States beverages, although all such movements are prohibited by the Eighteenth Amendment.

"The Department of State and the Treasury, including the Prohibition and Customs Departments, have always permitted foreign government representatives to import, trans-

port and possess unlimited quantities of beverages prohibited by both the Eighteenth Amendment and the Volstead Act.

"The Federal Prohibition Department has on many occasions made public announcements as to certain classes of violations of the Eighteenth Amendment and the Volstead Act that will be ignored and therefore are not prohibited."

Mr. Horst urges a referendum as a practical solution because he believes:

"There is no possible procedure by which a non-prohibition by Congress of any beverage can ever come to the judicial notice of the United States Supreme Court, nor is there any procedure by which Congress can be forced to prohibit any beverage it wishes to permit, nor is there any procedure by which any court injunctions can be obtained to prohibit anything not prohibited by a specific law."

G. S. Graves, Stettler, Alberta, Can., an authorized vendor of liquor, suggested:

". . . Put it (liquor) where a man can get it legally and without risk of detection. Then seventy-five per cent of the kick has vanished and he does not care whether he has it or not. I know of many a man who used to go to no end of expense and inconvenience to get a bottle, that now never goes to the vendor's store at all, since the law says he can legally purchase it."

Lamar Lyndon, consulting engineer, Los Angeles, wrote:

"Prohibition has cost more lives than our war casualties; more money than our war expenditures, including the gigantic sums we were rooked for by the welshing nations; and brought more sorrow than all the bar-consumed liquor caused from the dawn of the preceding century to the date of Volstead's Act.

"Return to the States their proper, inherent police power and right of individual determination of the proportion of alcohol allowable in beverages before the intoxicating limit is reached."

Frederick W. Brown, Director of the National Committee for Mental Hygiene, New York, would "repeal or amend

the Eighteenth Amendment in such a manner that the objective shall be temperance rather than prohibition."

J. W. Madden, Professor of Law, University of Pittsburgh, believed that:

"A system of dispensaries of intoxicants should be operated by the state, according to the best experience available from the Canadian provinces."

Reginald E. Hose, Secretary to the British Columbia Liquor Control Board, Victoria, B. C., and author of "Prohibition or Control?" has been in an excellent position to study the liquor traffic as it affects Canada. In a synopsis, Mr. Hose summarized his proposals:

"The plan suggests legislative relief from existing restrictions through the instrumentality of a League, unequivocally pledged to a national referendum; anticipates as the corollary thereto, a reorganization period, culminating in restoration of State sovereignty; proposes (to bridge this hiatus) a new authority for directing the liquor traffic during such time as Congress may determine: discards or replaces—as a twentieth century expansion: into a world of new horizons—certain cardinal tenets hitherto associated with liquor administration; abandons local option, now geographically as obsolete as the medieval moat and drawbridge; excludes vested interests and private gain; substitutes, for illicit surreptitious drinking, lawful consumption (public and private) under government regulatory control; inaugurates the Nation-State in a fiduciary capacity unencumbered by compensatory or other complications; and, though monopolistic in character but limited and restrained by local authority, is constructive and flexible rather than restrictive and rigid."

Captain H. C. Dinger, U. S. Navy, was of the opinion that "the dispensary system is not such an extreme as the Volstead Act. It may, therefore, enlist the actual support of a large majority of the people."

David W. Bowman, telegraph editor of the *Cincinnati Times-Star,* wrote:

"Restoring beer and wines to their old status would reduce the demand for stronger beverages, thus replacing prohibition with temperance."

Benjamin H. Brockus, former Federal Prohibition Agent, Washington, D. C., from long experience wrote:

"I am of the opinion that any plan, to prove successful, must be devoid of any irritating restrictions placed in the way of the drinker in obtaining his liquors."

And M. L. Jenny, Professor of History, Geneva College, Beaver, Pa., offered among other suggestions:

"Congress shall create a new department in the government, the head of which shall be a member of the President's Cabinet, in which department shall reside the powers of supervision and control of the manufacture, purchase, distribution and sale of all liquors."

Robert Rosenbluth, Assistant Director, New York State Department of Social Welfare, Albany, found discrimination in the present laws and pointed out:

"Obviously the farmer can always have cider 'with a kick.' The rich city man can make, and have, his own drinks at home. It must be made both legal and right for others less fortunately placed to enjoy like privileges."

Patrick J. Ahern, seventeen years in the United States Secret Service and nine years in the Department of Justice, Washington, D. C., dismissed the blessings of prohibition with:

"The only thing prohibition has accomplished is the extirpation of the saloon, and that in name only, as drug stores, cafeterias and cigar stores are the successors of the business. . . . There is no alternative but the modification of the Eighteenth Amendment."

Repeal was the feature of the plan of David S. Blankinship, Judge of the Juvenile and Domestic Relations Court, Rustburg, Va., who wrote:

"Abolish the Eighteenth Amendment entirely and substitute a national law that will permit the sale and use of ardent spirits in limited quantities."

Naturally the plans were replete with historical references. Thus J. H. Evans, No. 208 Idlewild Drive, Chattanooga, Tenn.:

"Man needs levity even when it is artificially induced. To relieve the social tension in Rome that was caused by the city's excess of laws, Seneca, the wise statesman, philosopher and author, recommended occasional alcoholic exhilaration for the lawmakers as well as for the citizens.

"It was China that first tried to be bone dry; and China has stood still for centuries. In the eleventh century, B. C., the Chinese Emperor ordered all the grapevines in the kingdom to be uprooted. The consequence was far-reaching; the people took to making strong drink out of rice; and later acquired the vice of opium taking."

And J. Lander Scott, insurance broker, Los Angeles, Cal., wrote:

"The whole history of prohibition as a legislative policy applied to alcoholic liquors is one of complete failure. Already, with the exception of Finland (and Hedjaz), every foreign nation that has ever adopted the policy has abandoned it, and it is notorious that in Finland whole villages have turned bootlegger down to the last man."

Comparing prohibition with temperance, I. B. Kaplan, No. 765 Eastern Parkway, Brooklyn, N. Y., submitted:

"PROHIBITION spells:	TEMPERANCE spells:
P—oison	T—olerance
R—acketeer	E—ducation
O—ppression	M—oderation
H—omicide	P—atriotism
I—ntolerance	E—mancipation
B—igotry	R—egulation
I—niquity	A—cquiescence
T—yranny	N—ormalcy
I—ndecency	C—oöperation
O—pression	E—nlightenment"
N—oncompliance	

In an 800-word plan Ezra P. Prentice, well-known New York attorney, and incidentally the son-in-law of John D. Rockefeller, Sr., proposed:

1. Local option as complete as possible.
2. Light taxes on beer and light wines, with supervision over sale.
3. High taxes on distilled liquors, and wines of high alcoholic content, with rigid restriction on sale.

"By 'liquor' is meant any alcoholic liquor; by 'beer,' beer, ale and malt liquors; and by 'light wines,' wine, cider, and beverages of low alcoholic content. . . .

"Sale of beer and light wines, by the glass, to be drunk on the premises, should be permitted at beer stores, within fixed hours, under license and careful supervision. . . .

"Hotels, restaurants and clubs should be permitted under license to sell beer and wines with meals. Sale of bottled beers and light wines, not to be drunk on the premises, should be permitted at groceries under license. Sale of distilled liquors and wines of high alcoholic content, bottled, in quantities not less than one pint, not to be drunk on the premises, should be permitted at stores exclusively for such sale, under license. . . .

". . . With the disastrous experiment of prohibition behind us, and a workable plan for the control of the liquor traffic in operation, the Protestant and Catholic Churches, the newspapers, industrial leaders and thoughtful Americans may be expected to build a sound and firm public opinion, which is the strongest foundation upon which true temperance can rest."

Nearly a thousand intellectual notables of the country were interviewed on prohibition between the first of January and April 30, when the contest ended. We are listening to Dr. Samuel Harden Church, president of the Carnegie Institute, Pittsburgh, publicist and leader of civic affairs in Pennsylvania:

"I am greatly pleased with the purpose of Mr. Hearst to use the great influence of his newspapers to procure a change from the degrading and hypocritical conditions which prevail in this country on the prohibition question.

"Prohibition's most severe economic penalty falls pitilessly upon the farmer. The enormous expenditures for the products of the farm for prohibited beverages before this legislation was enacted kept the farmer on the top wave of prosperity, and when this market was suddenly destroyed it produced a blight of distress which affected an immediate farming population of 20,000,000 directly, and all the rest of our population indirectly.

"Immediately after the Volstead law became effective the hotels in our large cities doubled the prices of their rooms, and the food prices were increased in like manner, and these prices advanced proportionately throughout the country.

"Beautiful restaurants which were the pride of our cities closed their doors, leaving in their stead clandestine cabarets, wild dance halls and the counterfeit clubs.

"In 1926 there were 150 deaths from alcoholism in all Australia, with a population of about 7,000,000, against 682 in New York City alone, with a population of 6,000,000. In all England and Wales, with a population of 38,000,000, there were 203 alcohol deaths in 1926, yet New York City, with only one-sixth of that population, had more than three times that number, and the Metropolitan Life Insurance Company reports that the liquor death rate has increased sixfold in the dry law decade.

"A substantial part of this mortality is due to the insensate legislation, acclaimed by the Anti-Saloon League, whereby the United States Government poisons its alcohol.

"The champions of the Volstead Law promised that it would empty the jails, yet the Federal Council of Churches of Christ reports that the arrests in Chicago in 1920 were 15,273, while in 1924 they were 239,829. In Pittsburgh the arrests for drunkenness in 1920 were 14,000, while in 1927, under dry legislation, they increased to 30,000."

Professor Jerome G. Kerwin, University of Chicago political scientist:

"One thing is certain, the present prohibition setup is wrong. It is far too drastic to be enforceable. Consequently it has not been enforced.

"Perhaps a plan similar to that enforced by the Canadian and Scandinavian Governments for the sale of such beverages under purity guarantees would work out in America. To regulate rather than prohibit—that I believe will be the real means of arriving at a solution of the whole temperance problem."

Major Henry H. Curran, president of the Association Against the Prohibition Amendment, former President Borough of Manhattan, New York City:

"The Association Against the Prohibition Amendment has expressed as one of its chief aims almost exactly what Mr. Hearst demands as a practical accomplishment. In a resolution adopted by our directors early last year it was set forth that 'In place of Federal prohibition, we demand the installation, by the States, of a method of controlled and restricted distribution which will prevent the exploitation of the liquor traffic for unconscionable profits, and not only do away with prevailing speakeasies and secret drinking, but prevent the reappearance of the old unregulated saloon system and the political iniquities which accompanied it.'

"Mr. Hearst has done a great service to his country in stimulating through his prize contest ideas for a plan to rid our Constitution of an extraneous intrusion and to restore true temperance in the United States. He has recognized not only that prohibition can never promote temperance, but that existing prohibition conditions being utterly intolerable it is important to take steps at once toward formulating a plan to take the place of the un-American Eighteenth Amendment and Volstead Law.

"Intelligent and informed Americans will agree with Mr. Hearst's able summary of the evils of prohibition. He has

outstripped them in calling for an immediate, definite substitute for the legal travesties that are responsible for all our prohibition ills."

General Clarence R. Edwards, Boston, one-time commander of the Twenty-sixth Division, A. E. F., declared:

"I am for temperance and I believe that the Eighteenth Amendment was the most unwise fundamental statute ever passed in America. Mr. Hearst has had the right idea. We are fast becoming a great nation of hypocrites because of prohibition.

"But I am chiefly concerned with the terrible effects the Volstead Act is having on our glorious youth. I don't care for youth that's moral by restriction of laws. When I served overseas I had 60,000 men in my charge and I tell you that I never saw as temperate a crowd anywhere as they were.

"Perhaps one way to repeal prohibition would be to appropriate about $600,000,000 and attempt real enforcement. Then the people would balk and repeal would be brought about in no time.

"But prohibition is more dangerous to youth than anything else. Before prohibition was passed the youth was becoming by public opinion temperate. In those days liquor was taboo in clubs, colleges and universities.

"Nobody wants the saloon back and it never would come back. But this idea of making a crime out of something that is not criminal is not an admirable state of affairs.

"Today 'the wine of the country' is bad whiskey and we are fast becoming a whiskey drinking nation, when we should be a wines-and-beer country."

CHAPTER VIII

WOMEN'S VIEWS

THE Temperance Contest furnished opportunity to women in every walk of life and in all sections of the country to voice their earnest disapproval of prohibition conditions. The professional woman, in fluent phrases, stressed the danger to society in general. The wife of the mine-worker, in labored handwriting, besought in desperation relief from the drunken degeneracy of her husband.

The school-teacher pleaded for protection of her charges. The mother prayed that her sons and daughters might be safeguarded from the perils of prohibition.

Women of all classes, many of them at one time ardent prohibitionists, pointed out that the prohibition laws, while aimed at the drunkard, had struck down the child.

It would be a gross exaggeration to say that the majority of women contestants displayed an attitude of sheer emotionalism but it is true that comparatively few of their plans failed to reveal the author's sex. Only brief study of the contributions was necessary to make it apparent that man's resentment against prohibition springs primarily from his head, so to speak, while woman's opposition comes from her heart.

The tone of the feminine plans strikingly demonstrated that in the American woman prohibition has aroused the fighting instinct of the female defending her young. She is vehement in her denunciation of dry fanatics. She looks upon prohibition as a pernicious thing that must be destroyed if decency is to be restored to the home, if youth is to escape the great web of evil that entangles it.

PROHIBITION ENFORCEMENT

Facing a sentence of five years in jail a woman of twenty-two now awaits trial before a judge in a California hall of justice. The charge is that her husband operated a still in their home.

She mothers six small children, wholly dependent upon her care. Her situation is pathetic, because her husband, already convicted on that same Jones law charge, is now behind bars for a long time. He protested bitterly that she is innocent, and that the blame is all his

Before considering the calm dicta of the professional woman it may be well to review the more colorful comment of the housewife. Thus, Mrs. Adeline Nowicki, No. 3240 Oregon Avenue, St. Louis, Mo.:

"The biggest evil and danger to our rising generation is the drinking of liquor in the homes.

"I have moved from one neighborhood to another to find a temperate and law-abiding neighborhood to live in, but it cannot be done. I have a daughter seven years of age, one son, six years of age and a boy sixteen months old. How shall I raise them under the present prohibition system? Moonshine all around them; houses of ill repute, and children peddling moonshine on the streets for their mothers!"

Mrs. M. P., Joliet, Ill.:

"I saw a woman get a little three-year-old girl drunk with her kitchen brew. I had a good home and husband but home-brew brought us to the parting of the ways."

Mrs. Charles E., of Wilkes-Barre, Pa., began her plan:

"I am the mother of an American youth who has been sacrificed on the altar of our economic system, before that sacred cow, PROHIBITION."

The intolerable conditions of her home-life were referred to by Mrs. R. A., Holyoke, Mass.

"My husband is a hard working electrician in the —— Mills. He works year in and year out, including Saturdays until 5 o'clock and also Sunday mornings. I was the happiest woman in the world when I heard 'No more saloons.' But now I find that my house has been turned into a brewery.

"Making moonshine keeps him up late every night. He got so drunk tasting it that I had to have him arrested. He would call me all kinds of pet names, swear, and talk me deaf and dumb until the early morning hours. He would walk all around the house, flash his flashlight in our eyes and turn on the gas, until we were never sure of waking up alive the next morning."

Prohibition's aid to the Illinois wife-beater was depicted by Mrs. Effie Theilken, of Springfield, who wrote:

"I did not know how bad conditions were under prohibition until my husband, a Justice of the Peace, moved our family over his office. Then my eyes were opened. I could name hundreds of occasions where complaints were terrible, but I will refer to only one.

"At midnight a young woman sought a warrant for the arrest of her husband, who was crazed by drinking mule whiskey. Her face was swollen and covered with blood. She had two babies in her arms, and was crying. She told me how her husband had been beating her and also how he had always been good to her until he took to drinking this stuff."

Economical methods of distillation, as practiced in Woonsocket, R. I., were instanced by Mrs. Exilia Paulkus:

"Some Polish people that were raided in our city were distilling garbage. The smell attracted the neighbors' attention and they were arrested. The officers couldn't believe it until they went in the house and saw the swill tubs around the place."

Mrs. Edith Camelia Smith of Hamilton, Md., joined thousands of other contestants in pointing out that the Utopian conditions promised by the prohibitionists had not materialized. That "only one of their promises, the passing of the saloon, has been fulfilled. That the saloon has been succeeded by the speakeasy, and that the brewery has been moved into the home."

With overtones Mrs. J. R. K., Manette, Wash., painted in passing a pretty pastoral picture of women gleaners:

"Just now the dandelion blossoms are out everywhere and I see women, some of whom profess to be leaders of the W.C.T.U., gathering them. Are they doing it for medicinal purposes? I know differently. They can't even wait for the fruit to ripen, so great is their desire to make home-brew. Every store window in the navy-yard town of Bremerton is displaying bottles, malt, hops, syphons and everything needed to make beer."

Mrs. Charles H. Sabin, of No. 1 Sutton Place South, New

York, wife of the prominent banker, at the close of the Temperance Contest said:

"I have read with deep interest the temperance plan of my good friend, Justice Franklin Chase Hoyt, and also the very lucid plan of General Dalton.

"I am hopeful that many more plans will be published, for I am impressed by the fact that the 71,000 theses submitted in the contest include the work of many highly distinguished citizens.

"Such plans, it would seem to me, undoubtedly embody numerous constructive suggestions which should prove of inestimable value in pointing a way to relief from the intolerable evils of national prohibition."

Mrs. Sabin, whose Women's Organization for National Prohibition Reform, has established advisory councils in thirty States was challenged by Orville S. Poland, of the Anti-Saloon League to publish the names of speakeasies and their proprietors discovered by her organization in its contemplated nation-wide census. Answering, Mrs. Sabin said in part:

"The Women's Organization for National Prohibition Reform is composed of women who are convinced that lawlessness, hypocrisy and crime have increased as a result of national prohibition and who will work for some change in the prohibition law to help bring about true temperance desired by us all. . . .

"The thought occurs to me as I read your letter that as the Anti-Saloon League is so well organized and has been in existence for many years that I am surprised that you have not already undertaken a crusade to investigate and stamp out speakeasies and forward the information to the officials charged by law to close such reprehensible and lawless resorts.

"Judging from the name of your league, its original purpose was to abolish the saloons and with that aim I am in entire accord, but as that has been accomplished, I am amazed that you have not organized into an Anti-Speakeasy

League, as certainly the speakeasy is fully as undesirable as the saloon and to the mothers of the country even more so, owing to the fact that the speakeasy sells liquor, poisonous or non-poisonous, to minors; also the fact that the speakeasy, being an illegal resort, may be within 200 feet of our churches and our children's schools.

"While I appreciate your suggestion as to how we should conduct our investigation, the Women's Organization for National Prohibition Reform will conduct its own investigation in its own way and give out facts when, where and how it sees fit."

In contrasting pre-prohibition conditions to those now existing, Mrs. Bertha Dana, No. 502 East Pine Street, Seattle, Wash., included with her plan the following observations:

"Fifteen years ago the cause of temperance was progressing. Most thinking men were rather well convinced that over-indulgence in alcohol was not clever. Each year saw diminution in the number of habitual drunkards.

"The gutter drunkard was an object of derision. Outside of the South you would not find a bootlegger within 500 miles, or a still in twice that distance. But now in every large city a bootlegger is found in almost every block. Stills have been discovered in the attic of an orphanage and in the basement of one of the churches here in Seattle."

From the opposite edge of the continent, Jennie R. Warner, twelve years old, of Clinton, Conn., submitted a plan coupled with an exposé of the technique of the bootlegger:

"A big car came down the road with a spare tire. It stopped near this house and the men got out and went to the spare tire. Each pressed a valve and filled his glass with hooch and then drove off. My brother was up in New York State last year and he said the way one fellow got it over the line was by driving four horses with large rubber collars. Going over, the collars were filled with air; coming back they were filled with Scotch whiskey."

Mrs. J. Hale Edwards, Lawton, Okla., treasurer of the Oklahoma Federation of Women's Clubs was confident that:

"An educational bureau under a temperance commission, with one or more great Americans giving all their time and energy to the teaching of temperance, can in one generation make America temperate."

Anna G. W. Dawley, Poughkeepsie, N. Y., attorney and member of the American Bar Association, suggested that:

"In the history of those living today we have never passed through such a crisis as the present one, and mainly because of this existing law, and this so-called prohibition."

Mrs. John J. Almack, wife of Professor Almack of Stanford University, Calif., and mother of Malcolm B. Almack who won the prize of $5,000 for the best high school essay submitted in the recent Durant prohibition contest wrote:

"My plan includes three steps: 1. Remove all Federal restrictions, 2. Let the States decide upon their own plans, 3. Study the results."

It was the opinion of Mrs. E. M. Souvielle, Jacksonville, Fla., vice-president of the League of American Pen Women, that: "there is no constitutional way to make law-abiding, law-loving, patriotic citizens; and no form of tyranny, no possible application of force, in any age ever did, or ever can accomplish it."

Mrs. Alex Wiley, Seattle, Wash., legislative director of the W.C.T.U., would repeal the Eighteenth Amendment and the Volstead Act and permit the several States to execute and enforce their own liquor laws. Mrs. Wiley was granted the degree of Doctor of Laws by Yale University where she studied international law under Chief Justice Taft.

Sarah C. M. Torbert, attorney of Atlanta, Ga., would permit people to make and use liquor in their homes "just as they are permitted to have other harmful things."

In the plan which she submitted, Irene McDermott, Director of Household Economy of the Pittsburgh Public Schools, asserted:

"Sooner or later the common sense of America will demand a Commission to inquire into those obsolete elements now existing as laws. The future can only belong to an en-

lightened democracy, sustained through superior intelligence rather than an unfortunate golden-calf worshipping of an emotional allegiance."

Baroness Franziska de Hedemann, distinguished author, No. 66 West Ninth Street, New York, expressed the belief that "Prohibition is a farce, a huge joke. Americans, the most prosperous, ambitious and energetic of people, are trying human nature to the breaking point. . . . Prohibition should be abolished at once."

Sister M. Immaculata, St. Joseph's Convent, Wheeling, W. Va., submitted an unusually practical plan embracing not only home-manufacture of wines and beers but "the manufacture and wholesale dealing in liquors under government supervision and taxation as in pre-Volstead days."

Ellen Stray, No. 1415 Eighth Avenue, Seattle, Wash., in Dawes-like phraseology proposed, "To hell with prohibition!"

The fact that animals in the public zoos are provided with whiskey evoked caustic comment on the part of Mrs. Thomas D. Mudd, No. 1328, Good Hope Road, Washington, D. C.:

"If whiskey is a good thing in certain types of illness, and our government can, and does, furnish it at the rate of ten gallons a consignment for one animal in the zoo, we can scarcely wonder that so many humans crave a little more humane consideration for themselves."

In an able plan, Helen Horst Moya del Pino, No. 3820 Washington St., San Francisco, Cal., expressed the belief that the existing prohibition laws violated the Bill of Rights and could not be reconciled with the Declaration of Independence. In Mrs. del Pino's words:

"Inasmuch as the rule of 'consent of the governed' is fundamental Americanism, and inasmuch as the Constitution was intended to guarantee the same, it is, and of right ought to be, the sacred duty of every branch of our Federal government to employ every possible means to safeguard and give effect to that rule. Because such infringement is negligible in comparison with the remedy suggested by the

Declaration of Independence, namely, to abolish the government when, by any means, the principle of 'government by the consent of the governed' is repudiated."

Mary A. Beadle, of the Legal Section, Veterans' Bureau, Washington, D. C., was of the opinion that "the question is not one of alcoholic percentage. Fundamentally it is a matter of boundary between the law and morals. Practically speaking it is a simple affair of mutual understanding between the legislature and society. Instead of punishment for the possession, transportation and sale of liquor, prohibition should be limited to the wrong consumption of alcohol.

"That would eliminate disrespect for the law, would flatter the feelings and aspirations of most Americans, and would leave a great margin for the law and consequential achievement of a true regime of temperance probably never to be reached by an unpopular statute. . . . As for the success of the reform, it is suggested that the Hearst papers crown their effort by conducting a country-wide plebiscite similar to the one they have already started for the revision of taxes on earned income."

As a substitute for prohibition Mrs. Beulah Martin, advertising manager for a Bakersfield, Cal., department store, offered the following:

"Legalize government manufacture and dispensation of beer, wines and whiskey of a percentage of alcoholic content to be determined by an Interstate Liquor Commission to function in conjunction with a Comptroller of Intoxicants."

Ruth Helen Davis, director and lessee of the Belmont Theatre, Los Angeles, Cal., suggested that the United States adopt one of the Canadian systems of controlling liquor.

Mrs. Addie T. Miller, Secretary of the Probation Department of the Municipal Court, Cleveland, O., saw a solution in:

"An extensive programme by the medical profession to teach the harmful effects of alcoholism upon the individual and his descendants."

It was the opinion of Mary D. Wilson, No. 1767 Church Street, N.W., Washington, D. C., that supporters of prohibition may be placed in three categories:

"(*a*) fanatics; (*b*) those who profit from the law through bootlegging, graft or earned salaries; (*c*) those who honestly seek temperance for the nation and have been persuaded that prohibition is the road to temperance. Obviously, the first two classes cannot be reached by reason or educated by facts. But the third class is open to appeal. Hitherto the appeal has been weak and spasmodic. What is needed is a fearless consistent campaign of education."

Examining the psychological difficulties encountered by temperance crusaders, Annie J. Cullen, North Arlington, N. J., observed:

"It is not love of whiskey which makes real temperance impossible in this year of grace. It is the fear of it, the blinding, demoralizing terror felt by good people who have never tasted anything stronger than sweet communion wine, which prevents all true education and practical action in this matter."

In similar vein, Violet Olive Johnson, Standard Oil Building, San Francisco, Cal., vigorously assailed prohibition fanatics: "Has any rampant prohibitionist ever attempted to find out why people get drunk? No! He is always satisfied with the doctrine of original sin and 'weak will power.' His sole contribution to the problem is a lot of noise and acrimony. Few men are made 'good' by such methods."

Mrs. Mary W. Marvin, Washington, D. C., has for the last fifteen years acted as a congressional secretary. At present she is secretary to Congressman McCloskey of Texas. In summarizing her plan, Mrs. Marvin wrote:

"License the purchaser, so that he may be regulated to a certain extent; make hard liquor a medicine obtainable only in small quantities through a doctor; make wine available at homes to take the place of hard liquor; and make beer (very rich in food elements) obtainable in eating places and at homes at a reasonable price, and the bootlegger will

move to some other country where prohibition is being tried out and temperance is forgotten. In a few years hard liquor will be out of date; drunkenness, debauchery and corruption will have disappeared, and temperance with its beneficent fruits—tolerance and health—will flourish."

Miss Mary Foy, well-known in Los Angeles as an educator and Democratic leader, wrote:

"I have been out of the teaching profession for some years, but before I had retired from it the word 'don't' had almost disappeared from the language of education. Instead of rules against this, that and the other thing, there had been substituted real training and the creation of a desire to do, and this ran all through the method of the best teachers.

"The coming of the war, with its military methods, brought back the old way of ruling others from without. Before the war, we had realized that the individual must develop his own desire and will. The war gave this a setback and prohibition came in during the war period. It is not working, and never can work, as it is unnatural."

Mrs. D. M. Coumbs, former U. S. Commissioner of the Northern District of California, prefaced her plan with:

"Whereas, the Government of the United States has failed to enforce the Eighteenth Amendment and the failure to enforce it has caused citizens and aliens alike to lose respect for the Government's authority, it is up to the loyal and law-abiding citizens to provide a substitute."

Miss Mary Tenebaum, attorney, and secretary of the Georgia Woman Lawyer's Association, Atlanta:

"Persons who want to drink are going to do so in spite of the law. I think a modification which would provide for the sale of light wines and beer would be far more creditable than the present law which, in spite of all the efforts on the part of the Government, is violated by all classes of people."

Mrs. W. J. Kenney, No. 6108 Marion Road, Indianapolis, Ind., the widow of a prohibition officer, "who died a martyr to booze-traffic mixed with crooked politics," suggested:

"The first step to repealing the toothless and denatured Volstead Act would be state referenda. But first it would be advisable to submit to the people the draft of an alternative act stating just what privileges would be offered them to replace the complete prohibition ordered by the existing law, that law which will not and cannot be satisfactorily enforced."

Numerous plans submitted by women contestants embodied suggestions characteristic of the sex to whose "infinite variety" Shakespeare paid tribute. For example, "Engage leading beauty specialists to lecture on the effects of alcohol upon one's personal appearance."

"Have temperance plates and non-temperance plates on automobiles to indicate the habits of the owner."

"Let every church have an annex where the members can obtain alcoholic beverages."

"Have the public schools teach the making of delicious wine from fresh fruits and sugar."

"Sentence incorrigibles to a penal colony in the Aleutian Islands, to develop those American possessions."

"Bind the drunkard to a street-lamp in the busiest part of town. Let him face the sidewalk where all may see him in passing."

"Use State prison property for the manufacture of beer, wine and whiskey, with convicts as employees."

Not unnaturally a number of women entrants betrayed ignorance of man's age-old desire, innate or cultivated, for alcoholic stimulants. Thus a California high-school teacher confidently advised the substitution of unfermented fruit juices, which she considered would be quite acceptable for the reason that they were equally appetizing and stimulating even though entirely free of alcohol.

Again a young woman resident of a small Virginia town, blandly suggested that drinkers, instead of picking up the whiskey bottle or going to the beer jug, should reach for a glass of cool, refreshing, pure water.

A New York contestant was of the belief that the solution

lay in increasing the number of plants manufacturing soft drinks. Another woman contestant seemed to be of the opinion that skimmed milk was nectar fit for the gods.

While many of the plans from adults discussed prohibition as it affects children, hundreds of worthy plans were contributed by the young people themselves.

The youngest entrant was Edward, the seven-year-old son of Dr. and Mrs. Joseph Tenenbaum, of No. 2 East Seventy-seventh Street, New York. Other representatives of the younger generation included:

Ione Lynch, age 15, No. 717 South Twenty-eighth Street, Tacoma, Wash.; Ida Marie Skinner, age 10, Monticello, N. Y.; Ramona Baster, age 15, Mayaguez, Porto Rico; Jerome Rose, age 15, No. 22 East Forty-fourth Street, Bayonne, N. J.; Frances J. Ullman, age 12, Jamaica Plain, Mass.; Austin Swan, age 16, Faulkner, Md.; Roy S. Patrick, age 11, Hilton, N. Y.; Jane E. Cornish, age 11, Paterson, N. J.; Elsie V. Helwige, age 15, Middletown, Pa.; Madeline Baber, age 14, New Martinsville, W. Va.; and John Coakley, a sixteen-year old coal-miner of Shenandoah, Pa.

Representative of contestants at the opposite end of life's span was Mrs. Mary Burgage, age 86, of No. 5701 South Thirteenth Street, Washington, D. C., while among nonagenarian entrants was Mrs. Sarah E. Finley, age 91, of No. 3798 Harrison Blvd., Oakland, Cal.

CHAPTER IX

EYEWITNESS TESTIMONY

ALTHOUGH the majority of the contestants addressed themselves to their task with no great display of emotion, the voices of tens of thousands of participants were raised in angry demand for the immediate repudiation of prohibition and the restoration of temperance.

Yet even these impassioned protests for the most part were devoid of fanaticism, being coupled with something of restraint and much of the sincerity and determination to be found in that historic ultimatum, the Declaration of Independence, which proclaimed:

"We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain inalienable rights, that among these are life, liberty and the pursuit of happiness. That to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed. That whenever any form of government becomes destructive of these ends, it is the right of the people to alter or to abolish it. . . ."

Thousands of plans were prefaced by suggestions that the "noble experiment" is an ignoble failure and that Lincoln's oratorical reference has been rewritten by the "super-government" so that it reads, "a government of the lobby, by the lobby, and for the lobby." But how closely the effects of prohibition are interwoven with the fabric of the nation's daily life was brought home by such commentary as the following postscript to a plan of Mrs. Marion Kempf, Staten Island, N. Y.:

"I am the mother of nine growing boys and girls. In our daily conversations it is sometimes funny but more often pitiful to hear them discuss the utter farce and disillusionment of prohibition."

Another contestant remarked, "My best friend was a teetotaler until after the passage of the prohibition laws but recently he drank himself to death."

Mrs. Thomas Peraglia, of Palisades Park, N. J., in a communication to the Temperance Contest Committee submitted:

"This is what prohibition has caused us to suffer: On February 12, 1927, a prohibition agent, participating in a raid next door to the house we were living in at that time, shot my husband without provocation. The bullet entered his chest and pierced the right lung. Later, in removing the bullet, part of a rib was broken off. Hemorrhages forced him to undergo blood transfusion. Then pneumonia set in. He has been lingering between life and death ever since."

After describing the hearing at which her husband was proved innocent of violation and then her attempts to obtain action from the Attorney General, Assistant-Attorney General Mabel W. Willebrandt and Prohibition Commissioner Doran, Mrs. Peraglia went on to say:

"We believe in law and order. We have been taught to respect the law. But why does not the Government help my husband, for he was innocent? He still has a seven-inch rubber tube protruding from his chest to allow the wound to drain for it has never healed. He was shot down like a dog. Worse, for dogs are shot but they are not made to suffer torture for more than two years."

A contestant whose name is omitted for reasons which will be obvious wrote from Easton, Pa.:

"I am an old ex-army sergeant and know whereof I speak. I consumed plenty of liquor before prohibition but always conducted myself in gentlemanly fashion. I've drunk the poisoned stuff which has come with prohibition and only recently I almost murdered my nearest and dearest friend.

I did not know it until the next morning. I will never forget the sickening sensation I had when I was told about it."

Typical of situations equally sad and difficult of correction was that described by a woman resident of a Massachusetts mill town who in a quandary submitted this problem to the Committee:

Her husband had been spending in a speakeasy his weekly wages of $60 which were badly needed for the support of the household. In desperation she consulted a lawyer, hoping that he would take legal steps to have the speakeasy closed. His advice however was that such action would be useless for her husband would find little difficulty in selecting one of several hundred other dives where he could squander his salary.

Her lawyer, she wrote, felt that until the present prohibition evils were abolished, her only recourse lay in having her husband forced to submit to observation by the physicians of a public institution.

From the plans and communications sent to the Contest Committee it is obvious that thousands, perhaps millions of citizens, a large percentage of them women, are appalled by the havoc which prohibition has wrought in their homes and are eager for advice which will help them to protect their husbands and children from the rampant evils of bootleg liquor. Today, alas, despite the hundreds of millions of dollars spent annually by the nation to maintain its armed forces, its prohibition department, its police forces and other bodies whose whole purpose is to defend the American home from enemies, the greatest enemy of all still stalks through the land practically unchallenged. Some hint of this is given by the following typical extracts from plans and comments submitted by the contestants:

"You may think me bitter, but if you only knew what I endure you would be surprised. My husband has just filled a drunkard's grave and my only son is a drunkard."

M. D. R., Hammond, Ind., gave as typical of the present situation the following incident: "While on a party one eve-

ning a man tried to sell a friend of mine a load of liquor but without success since my friend was not a bootlegger. Next morning when I opened up my Indianapolis newspaper I was amazed to recognize the picture of the stranger we met the night before and more amazed by the newspaper headline with this electrifying announcement: 'D— K—, prohibition agent of Indiana, is doing his part to curb liquor traffic.' "

Another typical incident related by a contestant was included in a plan received from Chicago: "At a party I attended we ran out of moonshine at about two o'clock in the morning. One of our hosts put in a telephone call. In half an hour a Chicago policeman, accompanied by a young woman, drove up to the house and delivered two half-gallon jugs of whiskey for which the police officer received $14. I know he was a police officer because I marked down his number and have seen him on his beat, seen him assist in a raid on a Fullerton Avenue speakeasy and doing police duty at the Northside Ball Park."

Another contestant whose name is deleted even though it appears upon his plan, gives a picture of prohibition in Washington, D. C., where, he remarks quite casually, he is making a good living by installing stills. He said in part:

"Knowing as I do more than 100 bootleggers and having just finished setting up my thirty-fifth still (I do not run them but put them in shape to be operated) I am in a position to know that the business is flourishing, especially since the Jones law enactment, as the price is higher.

"Twenty years ago if I wanted a drink I had to go and get it, but now all I have to do is to call one of the bootleggers and in a few minutes it is placed on the parlor table. I know three schoolboys eleven years old who procure liquor. This situation was practically impossible before prohibition."

Perhaps the most farcical element of this method of illicit manufacture is that the bootlegger works secretly not because he is in any great fear of the operations of the law but because he wishes to protect his profits from the claws of

rapacious prohibition agents, whose chief interest is in shaking down bootleggers. Every conceivable method of milking the bootlegger is employed.

The Easton (Pa.) procedure, according to one of many plans received from that town, is directed chiefly at the four breweries operating under permits:

"A day and a night agent are on duty to prevent the shipping of beer which has not been reduced in alcoholic content. One or two of the other agents can usually be fixed and the beer is removed while he is on duty. A staff of men called 'federal chasers' watch the honest agent when he is off duty to see that he does not show up at the brewery unexpectedly. The prohibition agent stands by the truck with a counter and for every one-half barrel that goes on the truck he receives fifty cents."

Mani H. Vakil, wrote his plan in the San Quentin Penitentiary where, because some cog in the machinery of his liquor-smuggling process slipped, he is serving a prison term. The insouciant Mr. Vakil observed with sang froid that he had no need for the $25,000 prize because the vocation which he pursued until recently had made him financially independent so that when he is graduated from the Penitentiary he will concern himself only with the writing of a book on the psychology of crime.

Incidentally many other occupants of prisons whiled away the long winter evenings by setting down plans which they entered in the Temperance Contest. A number of these plans are well-constructed and admirably phrased. In passing it may be noted that the penitentiary which submitted the largest number of plans was that located at Menard, Ill.

A concise report of the bootlegger at work was received from a resident of Hobart, N. Y., whose name is here omitted. Of a typical day in a distillery he observed:

"The work was hard. The men labored in the still during the night and delivered during the day. It was an abnormal life.

"The business was dangerous. They lived in constant fear

of their enemies, the Federal officers and neighboring competitors.

"These men felt that there was no harm in manufacturing and selling what respectable people wanted. Moreover they said lack of employment forced them into the business.

"The local police department coöperated with them. Officers received regular pay.

"The day I was there the representative of a great lodge came to make a wholesale purchase to distribute among his brothers.

"The liquor was manufactured under unsanitary conditions. The men would not drink it themselves."

Frank Bartelt, Passaic, N. J., wrote:

"Four years ago my wife was seriously ill with influenza. Several kinds of medicine failing, the doctor asked me for some brandy. I had none so he gave me a prescription but the druggist had no brandy and could not get any for several days. Fortunately I was able to get a bottle from a friend, his last bottle of French brandy, and it saved my wife's life."

In similar vein Edgar S. Frenger of Torrance, Calif., wrote that as a wounded war veteran there had been prescribed for him a carefully studied diet of which wine was an essential, but that "on returning to my native country I was chagrined to find that wine was denied me although enjoyed by foreigners and those of the Jewish faith. A trial of so-called wine-tonics proved injurious."

He then went on to relate:

"I had Italian friends assist me in making the pure dry wine that my health needed. I was raided, jailed, and fined. When my wine was poured out I remonstrated that I was entitled to some wine for home consumption. Came the answer, 'But you are an American.' The court gave no consideration to my war service nor condition of health."

Another war veteran, Alex Korach, a naturalized American, observed in submitting his plan:

"I believe Congress has robbed me of the personal liberty

which was guaranteed to me by the Constitution when they tell me what I should drink. I'll take that advice from a doctor but not from a lawyer or a politician."

Although the proponents of prohibition presume to calculate in billions the great saving which the law has effected, many farmer contestants referred bitterly to the heavy losses which they have had to endure. From a great grain center, Jamestown, N. Dak., E. A. Moore wrote:

"Our farmers have seen their neighbors in Saskatchewan and Manitoba in exactly the same climate and identical soil grow in wealth and happiness while their own conditions could hardly be worse. Land values have practically disappeared and the farmer voted for repeal and carried the State outside of the large cities. The farmer knows that prohibition has been his undoing and he also knows that the opening up of the breweries and distilleries of the United States means prosperity for the farmer and the nation."

The opinions of F. M. Sinclair, St. Mary's, Pa., similarly were based on personal economic experience: "I claim that national prohibition ruined the farmer. I had 1,000 acres in Lincoln County, Minnesota, and lost it in 1921 as thousands of others did. It was no trick in our locality to raise from 40 to 60 bushels of barley to the acre and sell it to the Golden Grain Belt Brewery and all the rest of the large and small breweries. They were forced to stop buying our barley and we could not get enough for the crop to pay the seed, cutting, and thrashing bills. That was also a good corn and rye country and the distilleries offered us a ready market for these products.

"I don't know what Congress thinks about it, but I think it would be better to open up the breweries and distilleries than to build more jails."

There is but small consolation offered to such farmers as Mr. Moore and Mr. Sinclair in the fact referred to by thousands of contestants that many "one-mule farmers" as a result of prohibition no longer find it necessary to scratch a parlous living from the soil. Their bank balances swollen by

the profits of their present occupation, bootlegging, their newly built garages housing luxurious limousines and their hearts filled with love immeasurable for the dry lobbyists in Washington, they survey the world which prohibition has gilded for them.

The eastern European immigrant who but a few short years ago eked out an existence more miserable than that of many animals, whose windowless sod house, built from the surface of mid-western prairies, sheltered his innumerable and half-starved progeny, today realizes that this is the best of all possible worlds. "Automobiled" with the best of them he is a retired farmer and a successful, even respected, bootlegger-brewer-distiller. He realizes that it is an ill law that blows nobody any good. He no longer makes hay while the sun shines but manufactures infamous concoctions in a dark corner of his barn.

Many "old settlers" had their day in court. Thus, prefacing the plan of R. J. Reese, San Antonio, Texas, was a succinct history in staccato style, of prohibition in the United States as observed during his long lifetime.

"My age, 79—have observed liquor business 70 years. Before 1868 no liquor laws existed. Bad liquor unknown. Distilleries made *pure* whiskey—wholesale, ten cents a gallon. Every home kept it for medicine—sole snake-bite remedy—good for chills in bitters, which all had to drink. Made most people hate liquor. No women or children drank, A few men drank, rarely to excess. All were taught 'liquor for medicine only.'

"Small towns had no drug stores,—no saloons—beer-gardens, not bootleggers, then. Some hotels and steam-boats had bars for accommodation only. Merchants supplied customers liquor free. Congress (1868) taxed all liquors—licensed their sale—boosting prices, making bootlegging (unknown before) very profitable. Saloons, beer-gardens, speakeasies, gambling, disorderly houses with their immoralities and crime, started up almost magically. Several barrels bad liquor were made from one of good, netting huge profits.

"We temperance folks struggled fifty years to oust saloons. Taxation and license made liquor cost $3 a gallon then. Now, under prohibition drug-store liquor, including prescription fees, costs $40 a gallon. Bootleggers sell vile stuff (costing fifty cents a gallon) at $10 to $20 a gallon. Good people, needing liquor for medicine forced to buy bootleg or pay $40 a gallon. The rich can buy either, the poor neither. Iniquitous class legislation, which breeds contempt for laws, and largely the cause of so much prohibition violation.

"We know the awful condition directly resulting from this system, well-meant by us good but mistaken people. I was a prohibitionist till I saw it tried so often, first city, then county local option—then State prohibition, then government prohibition in Indian Territory.

"None of these methods prohibited—just made bootlegging more profitable. So good temperance folks united on national prohibition and adopted that colossal failure. Now we seek to remedy this worst of all calamities that ever befell our nation."

In like vein W. H. Yancey, No. 514 West Eleventh Street, Vancouver, Wash., wrote:

"I have been in the West seventy-seven years and have lived in the Pacific Northwest seventy years. I have seen the saloons as they were conducted in the old days, and the hell and hardship they created in their long and disgraceful career. I never want to see them again, and yet, if I had my choice of the saloons or this prohibition law, a blight illegally tacked on the Constitution, I would choose the saloons, as bad as they were, for they would be a vast improvement on the present rotten conditions."

Arthur B—, of Brooklyn, N. Y., after twenty-eight years as waiter, headwaiter, bartender and steward, is now a speak-easy bartender and as such more prosperous than ever before.

"At times," he wrote, "I sit back and think, after a night's work in some dive, what a lot of unscrupulous politicians and the Anti-Saloon League can do to a country

of 115,000,000 people and get away with it. It makes me think it is all a mistake, or only a nightmare."

Incidentally, according to Federal statistical authority, there were 120,000,000 people in the United States on August 1, 1929, with 13,000,000 in our territories, a total of 133,000,000 population under the American flag. Yet Mrs. Mabel Willebrandt, deposed as an Assistant-Attorney General, remarked casually in her *New York Times* articles which constituted an exposé of prohibition that there were perhaps 20,000,000 good prohibitionists out of a population of "100,000,000."

Typifying the prohibition agent's view of the situation were the observations of an agent who submitted a plan from Juneau, Alaska:

"For six years I have traveled all over Alaska by boat, railroad, automobile, horse, dog-team, and airplane trying to curb the liquor traffic. I have taken trips lasting days and nights across Bering Sea almost to Russia and a trip of twenty-eight days down the Yukon, where I found eleven large stills in operation. I also traveled one hundred miles by airplane, landed and seized a large distillery.

"I have seen many men arrested and fined but they were soon back in the business. Some agents have become so disgusted that they refuse to arrest them and are taking graft instead. The only way to enforce prohibition is to hang all offenders or force them to commit suicide. Farmers raise corn, corn makes whiskey, whiskey makes prohibition agents, and prohibition agents raise hell!"

A prohibition agent who has been in the service since 1921 submitted a plan from Detroit. To it he appended interesting remarks, including the following:

"I have arrested international smugglers, sellers, manufacturers and transporters of intoxicating liquors, some of whom have never been brought to trial or apprehended, but have discovered that some of these persons have since been employed by the Prohibition Bureau at fabulous salaries when they themselves were fugitives from justice for

violating the very law they were endeavoring to enforce. Because I have seen such a broad line drawn in applying the national prohibition law, I am convinced that prohibition cannot control. Permit the moderate use of intoxicating spirits as a beverage, under strict Government control, subject to the right of each State to say whether or not it desires liquors made and sold within its boundaries."

From soggy Washington, D. C., a prohibition agent submitted a plan prefaced by reference to a few of the cases in which he was concerned:

"1. On August 8, 1927, nine men including a political boss were arrested at an illicit brewery. Almost two years have elapsed but case has not come to trial.

"2. December 22, 1927, on warrant raided a saloon; arrested an alderman and charged him with sale and possession. On January 9, 1929, case was dismissed, the defense being that the liquor was used for rubbing!

"3. May 18, 1928, seized truck with illegal beer. Judge fined defendant $50. Truck was returned to him in June. July 23, 1928, I seized the same man in the same truck, same town, same offense.

"4. April 30, 1928, seized bottling plant owned by local politician. Several hundred cases of beer, two barrels of wine. Case dismissed, insufficient evidence."

On the other hand offenders do not always go scot free, if the report of a Brooklyn contestant is to be given credence:

"There is a Federal judge here who has put more men in the penitentiary for from one to ten years than he has hairs on his head. He often said he wished the law allowed him to give them longer sentences. A little while ago this same judge had a birthday party and I happened to be present, having charge of the service, but let me tell you there was no prohibition at that gathering. There were all kinds of cocktails, whiskey, champagne, cordials, and brandy. Now where did he get that?"

A contestant who is an employee in a bonded warehouse located in Johnstown, Pa., suggested that:

"There should be a careful check-up of what remains in the bonded warehouses, making someone responsible for what has been illegally removed with or without certificate. In checking you will find there has been an additional one or two barrels made from each barrel of pre-Volstead whiskey, diluted and the proof raised, by adding alcohol known to the liquor trade as spirits."

That inefficiency permeates the whole enforcement body was the conclusion arrived at by Joseph Darling, Kew Gardens, L. I., who alluded to researches instituted on his own initiative:

"I reported major violations in Southern California, giving to the heads of enforcement departments names of violators and of witnesses. Nothing was ever done as the violators were big interests. I ran down the East Coast of Florida twice and found things wide open. Many of the cigar stands in hotels were selling the goods in original packages. I came upon high school boys who were used as a safe means for the distribution of wet goods. Frequently an honest government agent is 'shut up,' after which the traffic goes merrily on."

Thousands of references were made to the thundering tide of liquor which submerges Buffalo and its environs. However, such quotations are pointless, since no reader of daily newspapers is unaware of the efficiency with which liquor is transported across the border at that point. It is generally agreed that in Detroit the smuggling of Canadian liquor has ranked second only to the automobile industry. Buffalo, similarly, is looked upon with loving eyes by those who are anxious either to get rich quick or drink to satiety.

It would seem, however, that the country at large depends chiefly on home-brew. Home-manufacturing obviously is less dangerous than smuggling. As Raymond Hitchcock, famous comedian, wrote, in the plan which he submitted from the Lambs Club, New York: "Anything that can be made in the cellar cannot be prohibited in Congress."

It would be unfair to Mr. Hitchcock to give the impres-

sion that he treats the subject of temperance lightly, for his thesis closed with the heartfelt hope that new measures will "make it unnecessary for our great and glorious country to poison alcohol in order to satisfy the screaming few."

He deplored the fact that "the saloon, with pious pomp closed by prohibition, has quietly sneaked in through the back door of the once great American home and there established itself."

H. G. Sheldon, formerly State Director of Prohibition Enforcement for Rhode Island, provided the following eye-witness testimony on the workings of prohibition, which is reproduced without quotation marks:

Prohibition in theory, perhaps, as a means to temperance, may be ideal. In practical results, it is impossible. It has utterly failed after ten years of experiment even to begin to accomplish the desired ends.

Following prohibition, the first bootleg attack was made on distilleries and the stocks were greatly depleted. The tremendous prices and the ensuing tremendous profits brought a reign of crime never heard of before.

After three or four years of these depredations, the Government moved the remaining stocks into some eighteen concentrated warehouses, where it was supposed there would be better control. But, even then, vast quantities of liquor were stolen. The methods used were ingenious. In one place holes were cut through floors and barrels tapped. In another, a line of hose was run through from an adjoining building, and the contents of hundreds and thousands of barrels were pumped out, to be sold through bootlegging channels.

Many holders of certificates covering goods in storage found, when they went to withdraw, that their thousands of barrels were empty.

During this period of wholesale looting, permit privileges were handed out free as water. Wholesalers reaped a golden harvest, and the sparring for political favors to obtain the coveted permits was active. I examined the accounts of one concern that in four months diverted 5,200 cases of whiskey

and 240 barrels, making a profit in the transaction of over $500,000, suffered tax liabilities of $330,000, had bonds filed with their permit for $50,000, yet the case was fixed up for a settlement of $9,000.

Not only were the bonded warehouses looted, but, with the exception of one or two, every Government warehouse for the storage of seized liquors was looted to the limit. Owing to inadequate systems of keeping track of seizures, it was impossible to effect any check-up. Many bootleggers, purchasing liquors in the open market, often found their previously-seized stocks offered them for purchase. Many illegal seizures were ordered returned, and the custodians were unable to comply with the court's orders. Seldom was anything ever done, as no responsibility could be placed.

In alcohol distilleries there has been the same general condition. "Alky" is always marketable. Give a quantity of "alky" some coloring and flavoring, and in a few minutes any kind of hard stuff can be prepared. At one time, out of one big distillery, over 160 cars were diverted, and only one ever picked up. My men got it, and while it was traced to point of origin, and information given concerning the other cars, that was the end of it.

"Alky" has always brought big money. And one of the first menaces of the liquor game was the still. Following prohibition, the prices rose to dizzy heights. One dealer admitted that he got $28 per gallon. Immediately there sprung up, like mushrooms over night, moonshine plants and stills by thousands and tens of thousands.

Especially among the foreign element are these stills operated in countless numbers. In one month I located thirty-eight. In one day we picked up eleven, holding 75 to 200 or more gallons each, with thousands of gallons of mash, tons of sugar, hundreds of pounds of yeast, and all the other necessary materials and utensils. This situation is today general.

No one has even the remotest idea of the vast quantity of these deadly machines in use and operation. The Depart-

ment reports tens of thousands taken every year and, with pride, points to its activities. But they don't touch one out of fifty.

But mash fermentation was too slow and too dangerous of discovery; another idea was available. Somebody discovered certain of the specially denatured alcohol formulas could be redistilled, and the larger part of the denaturing removed; so much, in fact, that only a mere trace was to be found under careful chemical analysis.

The floodgates opened. Concerns sprung up over night. Denatured permits were issued without regard. Why, they could do no harm! Denatured alcohol could not be used.

It couldn't? Why, it is the greatest sinecure the bootlegger has today. And therein lies the great political graft. A clever politician of influence obtains for his client a reasonable amount of alcohol under permit to manufacture, let's say, hair tonics.

Such a killing! He pays 85 cents a gallon, and it costs him 25 cents a gallon to redistill. Then he sells it for $3.50 up to $6, depending on the market. He never has to look for customers, because there is always a market.

Many of the special formulas are "easy meat" for the distiller, and today it is considered one of the biggest leaks in the whole game, and you cannot beat it.

This denatured product and the marketing of it have produced the hellish conditions with which we are confronted today in the whole country. Not a single town or city is free. So seldom is a bottle of real liquor picked up by the authorities that it is a matter of comment and newspaper publicity.

And, in the matter of physician's prescriptions, the larger part issued for real bottled-in-bond goods are faked and unnecessary. Many doctors, supplied with one hundred blanks per quarter, or four hundred per year, will tell you honestly that they do not actually need as a matter of medical necessity, for legitimate requirements of their patients, TEN PER YEAR.

Yet, large numbers of the unethical use their allowances and clamor for more. They sell them for $100 or $150, or $200 per book to proprietors of speakeasies, barkeepers or bootleggers in general, who cash them in.

When after they looted the distilleries and warehouses in the earlier days, the rum fraternity looked for new fields to conquer, some wise one thought of smuggling by means of the now partly defunct rum fleet, and when this game was at its height, what a killing was made. At one time along the Atlantic Coast, the Government had a list of several hundred vessels engaged in unloading rum from Rum Row.

For four years this game went on to the disgust and astonishment of the country. Millions of cases were landed.

The meagre prohibition forces were powerless to curtail the importations. With no boats, and small personnel, they just had to let it by. At one time about one hundred and eighty vessels were known to be off the Atlantic shores from Eastport, Maine, to the Virginia Capes, and along the Florida and Texas coast.

Then a new crime was introduced. Counterfeit money was made outside the country, and much of it, too, for bootleg purposes. The rum dealer bought "the queer" cheap —25 cents on the dollar. Armed with thousands of this worthless currency, he went to the fleet, bought his loads by the hundreds, yes, thousands of cases, and paid for it in the bogus currency.

When a certain Louisiana church member, known as a reputable merchant, passed seventy of these counterfeit $50 bills to a teller in his bank as a deposit, he was arrested and revealed as a wholesale whiskey dealer. He turned prohibitionist after that!

In little Rhode Island, a conservative estimate of the rum runners themselves showed that in ordinary weather, permitting the going out of the usual small boats for loads, an average of 15,000 cases per week were landed. Other districts got similar quantities.

As the rum boats off shore were loaded with stocks of

anywhere from 3,000 to 20,000 cases at a time, it is easy to determine that at all times there were at least 750,000 to 1,000,000 cases awaiting landing. The turn-over was made several times a year.

They brag about the honor of the Coast Guard. O. K., to a certain extent. But that pertains to other activities than rum guarding. For a dollar or two a case the boat commander can be busy a few miles away and the load comes through.

The court records show convictions, with, in many cases, the entire crews participating in the graft.

Different rum runners are allotted to certain crews to "shake down." This boat mine, the next one yours, and the next somebody's else.

Aërated cider, colored and alcoholed, makes passable champagne. Alky with grape juice passes for the best port, sherry, claret, sauterne, or what have you?

Near-beer is spiked or needled, as they call it, and you get a good imitation or substitute for the real stuff. It's good that way and won't kill you even if a little flat.

To the average dry fanatic, the merits of prohibition enforcement and its success, are marked by the old saloon. With their meagre knowledge of the actual facts in the matter, they assume that with the old bars partly out of business, that the percentage of perfect enforcement is rated by them.

This is the greatest fallacy of prohibition. In most of the large cities a fair part of the old style saloons have disappeared, but they are still counted by tens of thousands, under the guise of near-beer saloons, of which there is no such thing.

Federal procedure is so antiquated and bound up with red tape that it gets nowhere. Only a few cases ever go to trial. A big percentage plead, and through deals and compromises get off on low fines, which mean nothing.

There was a time when the Federal Courts were looked upon with awe, and respect, criminals were in mortal fear

of the "feds" in whatever branch for it meant long-time sentences and heavy fines for the average Federal offence.

Today the criminal prefers his chances in the Federal courts rather than in the State tribunals. To the mind of the average crook, the federal court has as a whole, reached the stage where he can walk in, pay a nominal fine and walk out a free man.

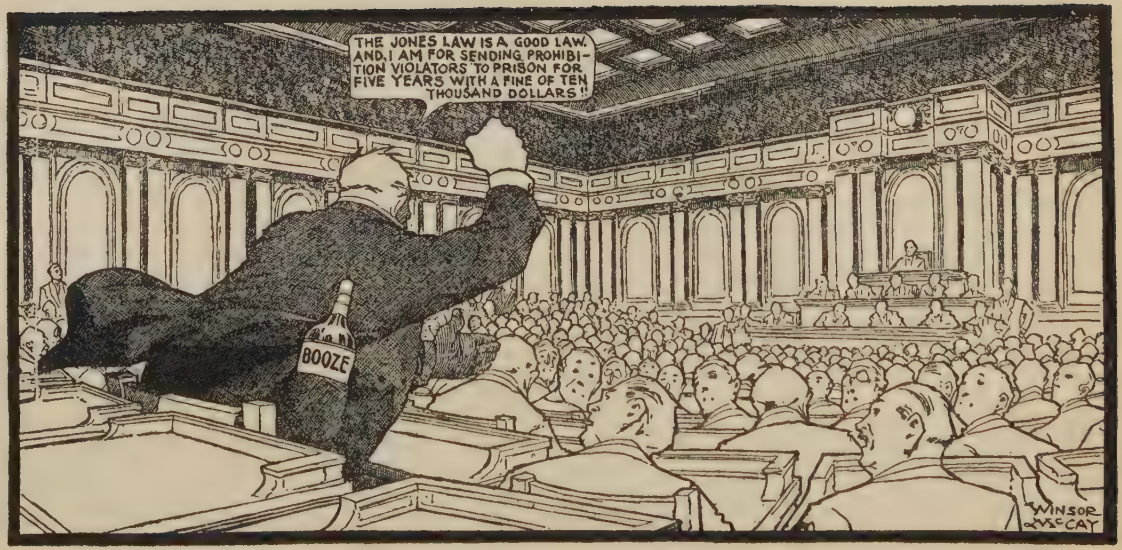
The general disrespect for the federal prohibition laws, the penalties and the officials, is shown by utter disregard of the prohibition statutes. For ten years they have been in force, and each year the government piles up increased arrests of violators. Instead of a falling off of violations, the violations are actually increasing by leaps and bounds.

The learned and temperate legal discourse against the inequalities and inconsistencies of prohibition by Joseph S. Auerbach, distinguished New York lawyer, in the *Century*, (June; 1929) comprises a treatise recommended for careful reading, especially by Congress and the United States Supreme Court.

Mr. Auerbach quotes another recent and illuminating article in the *Atlantic,* (February, 1929) on "Prohibition and Reconstruction," in which President Lowell of Harvard "depicts the hopeless demoralization and corruption proceeding from prohibition; and the foreboding conditions he sets forth, to use his own forceful phrase, strike at the root of our civil life."

Elmer Davis, in a late article concerning prohibition, "What Can We Do About It?" tells of "the weather eye which the Supreme Court seems to keep on public opinion." Further he avers "the Supreme Court is proficient in beating the devil around the stump when he needs beating."

To catalogue all such critical opinion and comment expressed in current day anti-prohibition literature would fill a voluminous work.


THE JONES LAW IS A GOOD LAW. AND, I AM FOR SENDING PROHIBITION VIOLATORS TO PRISON FOR FIVE YEARS WITH A FINE OF TEN THOUSAND DOLLARS!!
BOOZE
WINSOR McCAY

HE VOTES DRY; HE DRINKS WET

CHAPTER X

THE CHANGING TIDE

THE tide of prohibition, having reached its high-water mark, is undoubtedly ebbing. The wave of fanaticism recedes. Moderation is to prevail. The ranks of the drys have been depleted.

Dry organizations are losing both moral and material support. Religious bodies that have emphasized the "blessings" of "prohibition" are coming to see the wisdom of again separating Church and State.

The question of whether the intemperance of prohibition is to be retained has resolved itself into: How shall temperance be substituted for so-called prohibition? How shall this law, which has so miserably failed, be repealed or modified, so that it will live only as a deplorable dark chapter in the history of the nation?

With these facts and these queries this chapter is concerned. From the vast mass of material, from the millions of words which made up the plans, brief quotations illuminating the multi-sided problem are here presented. These excerpts, illustrating the changing tide of public sentiment, are made from plans submitted by United States senators and representatives, by members of State legislatures, lawyers, educators, jurists, and many others whose position commands respect, whose opinions warrant publication.

Interspersed are quotations from plans submitted by that most important individual "the man in the street," for it is he who elects our presidents and our legislators. It is he who pays the bills for our Army and Navy—and for our prohibition enforcement units.

More than any other type of citizen he is representative of the United States. His ballot is all-powerful and sooner or later it will be he who will decide whether the nation which slew the saloon-keeper, only to give birth to the bootlegger, shall long endure.

In his plan Melvin J. Maas, member of the House of Representatives from St. Paul, Minn., asserted:

"Absolute prohibition is not primarily designed, regardless of what its proponents may think, to eliminate or regulate the abuses of liquor, but to force the arbitrary standards of living of one person upon many others. Since this is not a legitimate nor a justifiable purpose of legislation, it cannot succeed."

Congressman W. C. Lankford, Washington, D. C., is identified with the dry element of his own State of Georgia. Mr. Lankford contends that "any practical plan must be evolved without the repeal of the Eighteenth Amendment if it is to become effective in the near future, as this Amendment can not be repealed without great delay, if at all."

He leans toward further test of the Volstead Act but nevertheless submitted a detailed plan providing that "the Constitution be amended, if necessary and as necessary, and that Congress pass an act to provide for the establishment and operation of selling agencies for the handling and sale of intoxicating liquors, beverages, and drinks referred to in the Eighteenth Amendment."

Accusing Congress of cowardice, James H. Roberts, No. 211 Spring St., Charleston, S. C., averred:

"Why does Congress hesitate to remove the terrible menace to our national welfare? The answer is, political cowardice. Our lawmakers fear the political power of a small but highly organized body of temperamentally intemperate and intolerant fanatics who have practically worked their will upon this country for nearly ten years."

That inanition on the part of the citizenry is the chief stumbling block was the opinion of M. D. C. Crawford, North Broadway, Nyack, N. Y., who wrote:

"Important and very serious groups of citizens now rely for all their information on paid propagandists, whose interest does not lie in temperance, nor in the suppression of indulgence in all forms of alcoholic beverages, but in maintaining a situation that affords them a livelihood. Let us clearly and steadily show these groups of citizens the actual effect of the law, and the systems of administration and enforcement which they now endorse."

Means toward this end were discussed by Major James W. Everington, U.S.A., retired, former chief of police of Los Angeles:

"Sociological authorities tell us that the best way to improve civic conditions is to form unofficial fact-finding committees, which represent our best citizenry, which are equipped to find facts, and which can secure enough publicity to enable them to organize public opinion. These committees have been successful and effective."

A member of the Minnesota legislature, O. E. Hammer, of Rochester, in submitting a plan, asserted:

"The Eighteenth Amendment outrages every principle of controlled freedom. It punishes and deprives the innocent with the guilty. It ought not to be in the Constitution. Prohibitionists are thoroughly and efficiently organized. They are stubborn in the face of failure, and fight with the craze of fanatics."

A. Z. Haugen, No. 1327 Terry Avenue, Seattle, alluded to the failure of prohibitory laws in Russia, Sweden, England, Germany, Turkey and Australia. "Humanity," he wrote, "is turning again to the laws of nature. Complete prohibition in Canada lasted only four years. Of the six provinces which jettisoned prohibition from 1921 to 1926, and substituted government control, four did so by referendum."

The colorful remarks of Charles Coe, No. 4662 Edgeware Rd., San Diego, Cal., are typical of expressions contained in thousands of plans. He wrote:

"To say, 'If you do not like it, repeal it!' is adding insult

to injury, for several millions of the best citizens of this country have been trying to have that done for years. But the 'fanatical board of intemperance, bigotry and political espionage' assisted by a vast army of bootleggers, by employes of the enforcement organization, and swarms of shyster lawyers who now have much business where none existed before, seem to control Congress. These Constitution wreckers have proposed, and declared their intention to have enacted into law, many other violations of our Bill of Rights, some of which are:

"1. Enforced observance of Sunday as a 'holy day' whereon all business, labor, and amusement will be prohibited.

"2. Prohibition of the teaching of anything contrary to the Bible in all educational institutions. This would oust biology, anthropology, zoology, geology, geography, astronomy, and necessitate entirely new mathematical formulae in relation to navigation and surveying, which is impossible, in that the earth is neither flat nor square.

"3. Establishment of 'Censor, Search and Seizure Boards' for public libraries, book stores, magazines and newspapers, theatres, moving pictures, painting and sculpture.

"4. Enforced reading of the Bible in public schools.

"5. Prohibition of the use of tobacco in any form.

"6. Regulation of styles of clothing, especially bathing suits.

"7. Limitation of radio broadcasting on Sunday to religious music and oratory."

Among tens of thousands of participants who voiced deep resentment against the church's unwarranted intrusion into political affairs was J. P. Matthews, Mitchellville, Md., who averred:

"President Hoover has hit Volsteadism its hardest blow. . . . He divulged unguardedly that secret animus stimulates dry enforcement . . . that the present Church party may continue to pull down fat appropriations from the Federal government and show its newly acquired political power in

snooping, spying, clubbing and murdering innocents who do not indulge in hypocrisy as they do.

"Let the churches establish their theocracy in Washington which Mr. Bryan prayed for, and you will have a replica of Mexico under the Spanish dons, or a Russia under the Romanoffs. If church dominance is so important now, why has priestly authority, whenever and wherever established, brought only poverty and serfdom to the populace?

"The safety of the Republic lies in total and actual separation of the Church and State. The one must not attempt to dominate the other. A priest or church member is only a citizen in relation to government."

With equal fervor Samuel C. B. Brown, of No. 178 Third Avenue, New York City, assailed theocracy:

"The Bill of Rights, part of the Constitution of the United States has become emasculated by 'packed' or subservient judges who owe their elections to fanatic moralists. Both judges and legislators are 'yes men' in the amen-corners of the churches of the political parsons. The Methodist Church and several others equally militant are a menace to American liberty."

At this juncture one may note appropriately amid contest comment on the subject, that it is now more than a decade since the deceased Wayne B. Wheeler, legislative agent of the Anti-Saloon League, was caught up and carried into a position of almost unlimited power. For almost seven years he ruled Congress and the Senate as no man had ruled before him. In the last few years a decided change has occurred; there has been a realignment, a shifting of forces and a change of leadership. It may mean either the eventual collapse of the Anti-Saloon League and the bone dry movement or it may be only the beginning of new attacks on the Constitution and American liberties directed by other organizations. Many things that have occurred, while of great significance, have not been announced in the daily press. For many reasons they are hushed up, denied or treated by those concerned as of no consequence. But, there

has been trouble in the camp of the rabid professional prohibitionists—serious trouble.

The actors in this business are for the most part clergymen—engaged, they say, in a highly commendable work, "a holy crusade, a moral reformation." To understand the significance of what has occurred in the camp of the bone drys one should know something of what the Anti-Saloon League is, how it functions, and what part it played in the enactment of the Eighteenth Amendment and the Volstead Law. The detailed story would fill a volume. Individual contributions to the League by some men have amounted in one year to more than $100,000. Churches also have permitted and assisted "field-day" collectors, such as the late William Jennings Bryan, who received a salary of $200 a day and expenses, to speak from their pulpits, while the W.C.T.U. and other auxiliary organizations circulated pledge-cards. The League raised as much as $2,500,000 in this manner in one year.

The political power of the Anti-Saloon League also has come directly from the churches. Campaign literature is circulated at or after services; candidates are allowed to speak from the rostrums. Church organizations canvass votes for the candidate endorsed by the League. Pledges are taken up and many banks, in which deacons are officers, are paid to collect them. In reality, the Anti-Saloon League is a corporation headed by a score of self-perpetuating czars, most of them clergymen. Declaring themselves to represent the churches, they have collected and spent perhaps $75,000,000 in seven years. This money was begged in churches and spent for political work.

Had it not been for the League and its activities there would never have been an Eighteenth Amendment or a Volstead Act. The League, under the direction of the late Wayne B. Wheeler, acting through the superintendents of the State organizations, filled the House and the Senate with men pledged to vote according to orders.

The Rev. Dr. Clarence True Wilson, bitter critic of the

late Mr. Wheeler even to this day, and aspirant to prohibition leadership through the Methodist Board of Temperance, Prohibition and Public Morals, waged a ruthless war on Wheeler in the months preceding the latter's death. The Anti-Saloon League, a Baptist organization, founded at a Baptist college in Oberlin, O., in 1893, and dominated by Baptist officials, fell out of favor with many Methodist drys, especially after the revelation of scandals affecting its management which induced such men as John D. Rockefeller, Jr., a Baptist, and others to withdraw financial support. Scott McBride, and his aides are now the prime movers of Anti-Saloon League policies, after a period of financial and political crisis in the League's affairs and a considerable remodelling of the organization.

The Methodist southern wing's prohibition activities have been in charge of Bishop James Cannon, Jr., chairman of the Board of Temperance and Social Service, M. E. Church, South. As this volume was being completed Bishop Cannon had been under intense critical fire, because of revelations of gambling in stocks on margin through the offices of a New York brokerage house which became bankrupt and was classified by Federal officials as a bucketshop.

Immediately following this, came an upheaval in the Methodist Church, South, and a political cataclysm in Virginia. The good Bishop sought to excuse and defend his speculations in a lengthy statement in which he said significantly:

> I had been brought up with the general idea of country and small-town people that all trading in Wall Street stocks was gambling, but I was compelled to face the question in practical fashion as visualized in business men of reputation and standing, not only in the community but in the churches. . . . I became convinced that there was very much latent hypocrisy in the attitude of very many persons on this subject. . . . I do not believe that such trading is immoral and I think there should be an end to the hypocritical attitude which insists in differentiating between the trading in stocks and bonds and in other property values.

Discussing the bishop's naive explanation, the *New York World* said editorially:

> Without discussing the ethics of the bishop's personal dealings with a New York brokerage firm which is now in receivership, we wish to record his discovery of latent hypocrisy among small-town and country people. Bishop Cannon goes further and states that if the views of these folk are right the churches should purge their membership of those who trade in securities, and that "such action would result in a very great elimination in a great many churches of some of the very best people in the churches."
>
> On this point we fully agree with the bishop. But it occurs to us that since he has discovered the existence of this prejudice and hypocrisy in rural communities regarding Wall Street he ought to examine further and ascertain if there is not equal prejudice and hypocrisy with regard to other matters. For example, he might discover that the very people who denounce all stock-trading as gambling are also the most zealous devotees of Volsteadism. He might also discover that if the churches purged their membership of all who were not 100-per-cent. supporters of the Volstead act there might be an "elimination in a great many churches of some of the very best people in the churches."
>
> We welcome the bishop's repudiation of one idea prevalent in the community in which he was reared. We should like to see him take an equally open-minded attitude toward some of his other early prejudices and admit that there are at least two sides to this question of Federal prohibition. If his boyhood neighbors were mistaken and hypocritical about Wall Street there is at least a possibility that they are likewise in error on other public questions of equal import.

On the same day the *Virginian-Pilot* of Norfolk, Va., published the following editorial:

> One of the most durable of all delusions is the delusion of high-pressure reformers that everybody needs reforming but themselves. Brilliant confirmation of this fact may be found in Bishop Cannon's 15,000-word statement in which he proves to his own satisfaction (1) that while others who buy Wall Street stocks on margin for quick resale at a profit may or may not be gambling, when he himself engages in

these operations it is never gambling but prudent investment; (2) that it was more important that an obscure women's academy in Virginia be able to operate through the war period without an increase in charges for table board than it was for the President of such college (and presumably the Presidents of the 2,000 other colleges and academies of America) to co-operate with the government in its effort to ease the economic strain of war by refraining from the hoarding of essential foodstuffs; (3) that while it is quite all right for a Methodist bishop to make public attacks on the Roman Catholic Church and for the sectarian organs of Protestantism to echo these attacks, it is sinister and anti-American for Catholic sectarian organs and individual Catholics to counter-attack their attackers; (4) that while the principle of majority rule is sacred when manifested in the legislative adoption of national prohibition, it is a gross betrayal when it results in the outvoting of a particular element at a National Convention and in the nomination of a candidate distasteful to the minority, and (5) that while he himself is animated in his public activities by a holy zeal for moral betterment, the secular newspapers of the United States, especially those that presume to question the wisdom or morality of our present prohibition arrangements, are consumed by a desire to undermine his influence as a first step toward making the nation safe for sin.

The key to Bishop Cannon's brief on his own perfection and on the wickedness of those who question it is to be found in that pregnant phrase in which he refers to himself as "the representative of the moral forces of the State." As if the moral forces of this State or any other State are coterminate with the Anti-Saloon League, or any other band of reformers, or any particular religious group, or limited to any special element of the citizenship.

The moral forces of the State of Virginia are more widely disseminated than the bishop suspects. They include not only the Protestant sects but the Catholic and Jewish sects. They include not only deacons, stewards and vestrymen but also persons who hold no churchly office and are not even church members. They include all decent men and women of every walk in life, of every trade and calling. They include, in short, all honest, self-respecting, well-intentioned residents of this Commonwealth. They include, we suggest, also the secular newspapers.

It is the height of arrogance for any particular group of this conglomerate citizenship to insist that it alone is the re-

> pository of the only moral conscience that is entitled to the State's respect. To look upon oneself as the special pope of morality because of one's position of leadership of this particular group is to be possessed by a poisonous delusion of moral singularity. It is this extraordinary capacity of the reformer mind for disbelieving in the democracy and dissemination of the moral conscience that is becoming responsible for our worst exhibitions of tyranny.

Immediately came the gubernatorial primaries in Virginia, in which John Garland Pollard, political rival of Bishop Cannon, was chosen overwhelmingly to head the Democratic ticket while administering a resounding thwack to the Cannonites in the party. The primary result was regarded as a tremendous victory for the Virginia programme of progress and was interpreted as a test of Bishop Cannon's political leadership. The Bishop's Virginia activities of course have extended to both parties. Behind him and C. Bascom Slemp, in the Republican fold, have been lined up the anti-Smith men of the Old Dominion.

Since both Bishop Cannon and the Rev. Dr. Wilson have been continuously in the later limelight of prohibition, it has been deemed expedient to discuss the foregoing sidelights for the benefit of readers in parts of the country remote from their sedulous political activities. Representative George Holden Tinkham, a Massachusetts Republican, has vigorously attacked Bishop Cannon not only in interviews but through instigation of criminal prosecutions. Representative Tinkham, far from inactive during the torrid dog days of 1929 at Washington, declared:

"The Department of Justice is examining into the charges which I lodged with the Attorney-General some weeks ago pointing to flagrant violation of the Federal Corrupt Practices Act by the Methodist Board of Temperance, Prohibition and Public Morals, companion organization to Bishop Cannon's Southern Board, and to my demand for criminal prosecution."

Mr. Tinkham sent to the Attorney General a digest of

the $27,000 of loans which Bishop Cannon made to the anti-Smith Democrats of Virginia in the 1928 campaign. Tinkham said further:

"I suggested to the department the propriety of a probe by the Department of Justice of these transactions, which appear on their face to bring the Bishop within the purview of the Federal Corrupt Practices Act. I am hopeful that Attorney-General Mitchell may be able to force from Bishop Cannon a full disclosure of the source of the $27,000 of loans and advances which the Bishop now insists he made personally to the committee. The Bishop quite evidently does not intend to volunteer it."

Tinkham asserted that neither Bishop Cannon nor Dr. Clarence True Wilson, head of the Methodist dry board at Washington, had been frank about campaign funds or had been willing to exhibit records and letters to the Justice Department. As for the bishop, Tinkham accused him of dealing in "half truths and evasions," and of first denying he had advanced money to the anti-Smith group, then when "confronted with documentary evidence" to the contrary, of explaining that these were personal loans. "He leaves unanswered," said Tinkham, "the question that was asked him, which lies at the heart of the matter, namely, whose money it was, from what source did he obtain the large sums which between August and November in 1928 he loaned to the anti-Smith Democratic committee. He has denied that any of this money has come from the treasury of his church board. He insinuates that it was his own money, but he dares not say so."

A Kansan, W. C. Hayes of Atchison, deplored the abject failure of national prohibition on his native heath and was no less depressed by the fact that the actions of so many clergymen have been out of character. He wrote:

"If our good ministers of the gospel that work over-time and exchange the Good Book for a law book and the policeman's club will return to the Good Book much more good could be accomplished."

The contestants paid their compliments equally to the polysyllabic Methodist Board and to the Anti-Saloon League. Of this latter organization Principal D. J. Miller, of the Brandywine (Md.) High School wrote:

"I am thirty-seven years of age and have never taken a drink. I was actively in favor of prohibition but not to the extent of making it a political question or favoring sumptuary legislation. I was once a member of that group of persons for whom I now have no respect—in fact whom I regard as super-criminals—for whom I have less regard than for the genus bootlegger. I am speaking of the Anti-Saloon League."

In the opinion of another contestant, Dr. Boris Brasol, New York City, eminent criminologist, who is also quoted elsewhere on another phase:

"Ten years of the Volstead regime have conclusively proved that the American people will neither stand for prohibitive laws, wantonly encroaching upon their personal freedom, nor goose-step to the command of any political clique, even though it be the Anti-Saloon League. The bone-dry experiment wrought upon the nation a great disaster; its manifold effects will be long felt even after the repeal of the Eighteenth Amendment."

Commenting on the operations of the League, Milliard F. Edwards, Examiner of Municipal Corporations, Olympia, Wash., said:

"The psychological rebellion of millions of persons against injustice and intolerance is in no small degree a protest against further domination by that modern juggernaut combination of political club wielders, known as the Anti-Saloon League, and certain Evangelical churches, whose attempts, in effect, to set up a theocratic form of government are meeting with considerable success.

"When the stranglehold of that octopus on Congress and the several State legislatures shall be placed in judgment before the people, its tentacles will be severed and we may again become free men and women. America can and will

repeal the Eighteenth Amendment if and when given the opportunity."

That the facts about the League should be widely disseminated was the view of C. J. Botsford, No. 200 Union Street, Flushing, N. Y., who suggested:

"A comprehensive history of the Anti-Saloon League, placed in libraries throughout the country, would be of a great benefit in exposing the methods and practices of that organization. Such a history, covering the founding, organization, political activities, lobbying, and financing of the League, and the criminal records of some of its leaders, would be a mine of information for speakers and officials opposed to prohibition. A book of this nature should be popular enough to produce some revenue to carry on other educational work."

From St. Matthews, Ky., Richard A. Frank wrote:

"The Anti-Saloon League has always tried to make it appear that the Eighteenth Amendment was passed by the vote of the American people. Any statements to this effect are not substantiated by the facts. When we consider that in all less than six thousand persons voted on the amendment, an amendment that has restricted the action of over 120,000,000 people, then we can grasp the widespread opposition to the amendment.

"Since many of these legislators had been elected long before on other issues, their vote, even if it had been free from intimidation, could not be accepted as representative of the desires of the American people."

Frank Farrington, No. 4450 College Avenue, Indianapolis, advised:

"Investigate the Anti-Saloon League, its tyranny and duplicity. Investigate this body's receipts and expenditures. Learn how any drunken legislator can get the active support of the League, as long as he will agree to bare his back to the lash of that body. I have not taken an alcoholic drink in more than twenty-six years, but I think the prohibition law is the greatest farce ever foisted upon a free people."

As to the super-government established by the Anti-Saloon League, N. B. Webster, Pearl River, New York, urged:

"Let us abandon the foolish attempt to establish and enforce a tyrannical set of laws, conceived in the narrow and biased minds of a small but determined band of fanatics, taken up and enacted into law by a weak and hypocritical Congress; ratified by State Legislatures composed largely of ignorant and corrupt politicians, both subject to intimidation and bribery by the Anti-Saloon League; and now in the hands of a set of enforcement officers who are at best only soldiers of fortune, responsible mainly to the Anti-Saloon League, ruthless and murderous in method."

If it should seem highly improper that private citizens should attack in such a bitter and unrestrained manner the legislators whom they duly elected to represent them, it should be considered that many members of Congress —Senators Reed of Missouri, Gould of Maine, Bruce of Maryland and Edge of New Jersey, to name but a few— have no less vigorously assailed their colleagues, whom they have repeatedly charged with an hypocrisy which has become a byword: voting dry and drinking wet.

Thus Senator Gould, in a series of articles written for the Hearst newspapers, said, on July 4, 1929: "Half of the 'dry' Congressmen drink, and then vote 'dry.' Senator Jones of Washington says he can mop up the United States with his new 'dry' law. Well, he has some job on his hands. I voted against it because I want to see this sham ended."

That it is incumbent upon every citizen to obey the laws of his land is not granted by the legislators themselves. Thus Senator Reed in his valedictory delivered before the Senate on February 18, 1929, a speech, incidentally, characterized generally by the press as the outstanding American oration of the last decade, said:

"Law. What, sir, is law? It is—and I speak now of proper laws—it is something that springs from custom and is adopted by general consent. But it must be more than that;

it must be founded upon justice; it must express equity and right; it must be humane in its operations. It must be something that commends itself to the spirit, the soul of mankind, to be a proper law. An improper law, an unjust law, a cruel law may be as much a crime as is the act of an individual who assassinates in the dark."

" 'Law!' cried Senator Reed. "Some people seem to think that if you can have a legislative body pass an atrocious law and fix a cruel punishment that that is the end of the matter, and that it is perfectly proper to enact such a law, if you can gather the votes to pass it. Why, sirs, the Saviour of mankind was crucified according to the Roman law and according to the Jewish law.

"I repeat now what I think I once before said in this presence, that the wretches who led Him to Calvary, who drove the nails into His feet and His hands, were as much criminals as though they had done it in the dark and by sheer violence and without the form of law.

"Joan of Arc was burned at the stake in strict accordance with the thing that was then called law."

Former United States Senator Marion Butler, Washington, D. C., in the plan which he submitted, argued:

"Thousands and tens of thousands of these organized temperance workers, are opposed today to the Eighteenth Amendment and the Volstead Act. They also realize that the Amendment did not, when adopted, express the will of the majority of the electorate of this country."

Among an army of contestants who mentioned that they had supported the cause of prohibition but that they had come to realize its futility, was Ernest A. Elliott, No. 1238 Beard Avenue, Detroit, who stated:

"The writer has never used liquor in any form and has wholeheartedly supported prohibition because he believed it would make life happier for the wives and children of drunkards.

"I welcomed prohibition. I believed that it was the dawn of a new era in which the drunkard would be reformed in

spite of himself. However, in ten years' time not a single case of such reformation has come to my attention. Prohibition will never improve conditions for the wives and children of drunkards."

A. M. Harper, No. 116 Henry Street, Savannah, Ga., wrote:

"I voted for prohibition, but after seeing the results of attempted enforcement I realize that the prohibitive method is fundamentally wrong and foredoomed to failure."

With admirable frankness Ben G. Houser, No. 2332 Wengler Avenue, Overland, Mo., explained his attitude:

"I am one of the great middle class—great in numbers, you know—that totters into the prohibition column when a count of votes is to be taken. I totter out of it when I get home and into the ice-box for a bottle of home-brew. And there are millions in the same boat with me. We are holding onto prohibition: not because we think it is the best thing to have, and not because we entertain an idea that it is a howling success, but because we think it is better than nothing."

The bone drys allude frequently to the draft riots at the time of the Civil War, feeling that the manner in which they were put down is worthy of imitation, and that force and more force is the panacea. Thus Dr. Clarence True Wilson, general secretary of the Methodist Board of Temperance, Prohibition and Morals, in an article "Call out the Marines," which appeared in *Collier's,* July 13, 1929, said, "And the draft rioters of New York also discovered that we had a man at the head of the government in Washington."

What, however, are the facts? Jesse I. Miller, attorney of Washington, D. C., in submitting his plan, quoted General Enoch H. Crowder, known to every American as Provost Marshal General during the World War:

"In 1863, the federal government adopted compulsory military service. Its machinery was federal. An army officer headed it as Provost Marshal General. The congressional

district was the administrative unit within which an army officer, army surgeon and a federal commissioner constituted a board to enroll and induct all persons liable for service. Thus was erected a purely federal organization, identical in principle with the present prohibition plan.

"After four months, enrollment had been only partly completed, but ninety-eight registrars had been killed or wounded. Drafting produced violent resistance, culminating in a four-day riot which reduced New York City to anarchy. In two years, the draft produced but 46,347 men for the army.

"In 1917, the government reinvoked compulsory military service. The World War Draft, or Selective Service made local coöperation, *through local participation,* the administrative basis.

"Each State became an administrative unit in charge of an official nominated by its Governor and appointed by the President. The Governor nominated, and the President appointed, local citizens to compose local boards to enroll and induct the citizen. The Federal government played no part in actual administration *except to pay its cost and to coördinate the activities of forty-eight states.*

"In four days 24,000 men were enrolled. In fourteen months they were classified and a selected army, 3,000,000 strong, mobilized. Launched as the war's most opposed measure, Selective Service attained both administrative success and popularity. This was due to a new principle of government."

A similar historical parallel was drawn by W. T. Andrews of the Custom House, Portland, Oregon, who wrote:

"It appears that the time is now here when the voters of the States and the various units of each State should be heard. It may be recalled that following the Civil War rancor existed between the Northern and Southern States due to the difference of opinions relevant to the civil status of the Negro, which situation brought about the measures known as Reconstruction.

"The results of the methods used in attempting to bring about a reconciliation of the difference in opinions brought about misfeasance, nonfeasance, and malfeasance in office holders; resistance by force to the extremes of the shotgun, the stuffed ballot box, and the presence of Federal troops. President Hayes withdrew the troops, leaving the enforcement of negro suffrage to the States. Time has proved that President Hayes was right."

Yet the Reverend Dr. Clarence True Wilson oracularly proposes to "Call Out the Marines," in the blood and iron message which he delivered under that title! Dr. Wilson in the fullness of his wisdom measures out fit penalty for the drinker: jail sentence for the first offense. He does not go quite so far as to specify crucifixion for the second offender.

Apropos of the church attitude toward prohibition, the famous experiment of the late bishop of the Protestant Episcopal churches of New York City was commented on by Samuel R. T. Very, an architect, No. 100 East Forty-fifth Street, New York City, who wrote:

"Even the old saloon was not considered so evil a social institution as to prevent Bishop Potter's organizing and opening one thirty-four years ago as a power for good and for temperance in New York City. He called it the Subway Tavern, and opened its dedicatory service by prayer. Fifty-five years prior the social custom of drinking was so universally accepted that one insurance company in England rejected a teetotaler supplicant for a life policy on account of his being 'thin and watery and mentally cranked in that he repudiated the good creatures of God, as found in alcoholic drinks.'"

President Hoover recently expressed a fear lest "the possibility that respect for law as law is fading from the sensibilities of our people." More than a few contestants laid the blame for such disrespect at the door of our lawmakers. They made frequent allusion to the fact that each year we add countless thousands of statutes to our already

cumbersome law machinery, until today no one in the world is able to make anything resembling an accurate estimate of the number of laws which clutter our statute books. Even Chief Justice Taft has been quoted as stating that he was unable to make an estimate but thought there might be 10,000,000 laws and ordinances which governed these United States.

That there is need for a new Justinian occurred to many contestants. Thus Larry Crosby, No. 754 North Sixty-sixth Street, Seattle, Wash., wrote:

"When the lawmakers finally adjust the prohibition blunder, they should spend at least one-third the time of future legislative sessions in pruning worthless existing laws rather than adding more to our statute books."

F. L. Slocum, Ph.D., No. 6914 Reynolds Street, Pittsburgh, Pa., had this comment to make:

"The amendments are not sacrosanct; if they were the Constitution would not provide for their removal. They are probationary organic laws to be changed or annulled when unforeseen causes demand that the Constitution shall be modified."

Dr. Slocum's attitude was concurrent with that of the great majority of the contestants. They were inclined to discard that outworn slogan: "My country right or wrong." . . . Especially did they oppose the reactionary doctrine so highly favored by the drys, "This is a country of laws, not of men." They were of the belief that laws like the Sabbath are made for men; not men for the law. They pointed out that, according to an existent Connecticut law a man may not kiss his wife on Sunday. That on the statute books of New Jersey is still to be found a law forbidding denial of the Trinity under penalty of having an iron rod driven through the offender's tongue; a law which professing Unitarians, including Chief Justice Taft, violate.

Many made the flat statement that since President Hoover entered office by means in flagrant conflict with the Constitutional provisions governing presidential electors he was

not legally President of the United States. The contestants made tens of thousands of references to violations of the Bill of Rights and the continued disregard of the 14th and 15th amendments to the Constitution. They stated or implied their belief that we need not merely laws but laws which we can respect—that statutes contradicting customs which millions of Americans believe to be good can never earn anything but widespread contempt.

Naturally innumerable contestants pressed the point that prohibition is a rich man's law enforced at the expense of the poor. Typical were the remarks of Thomas L. Gaskell, No. 200 Hudson Avenue, Albany, N. Y.:

"The man in the street believes that the dry law forbids and prohibits only the poor man. If the rich man can have his imported bottle in his home, at dinner or at his club, then the man in the street will have his from his bootlegger or at the speakeasy. He must be convinced that there is a serious effort being made to enforce the law all the way round. He must see us do something to curb the congressman and the man of wealth who openly flout the law, before he will obey and support the law."

And there were thousands who agreed with F. N. Wilkinson, Clarksburg, W. Va.:

"After holding a position as State and Federal Prohibition Agent for four years I believe the enforcement of the prohibition law as it is today is a poor man's law and a rich man's joke."

Only cursory examination of the manuscripts submitted was necessary to indicate that in the minds of many citizens the prohibition question is but a phase of a far larger problem, that of law enforcement in general. H. M. Goldberg, No. 242 Sutter Street, San Francisco, Cal., said:

"Personally I never considered the Eighteenth Amendment a law. How can I consider a law something that was stolen from the public? I am a stockholder in this republic because I have the franchise and my vote is registered like the votes of others. Voters are grouped into States and in

the State of California the people who are able to circulate a petition, place the question before the electorate and we vote.

"I was one of the voters on two occasions upon the question of prohibition. I voted with the majority both times but our crooked representative at Sacramento did the bidding of the Anti-Saloon League and set aside the desire of the public and ratified the Eighteenth Amendment and the crooked bunch in Washington accepted."

And William H. Bond of Mount Carmel, Pa., submitted that:

"True Americanism is the only way to obtain temperance. Prohibition is essentially Bolshevistic in that it makes the State regulate the private lives and habits of the individuals it governs. America ought either to eliminate this one experiment in Communism or else establish a Soviet to enforce it."

Hans Weber, Beaver, Penna., made the observation that:

"There is no American tradition which provides that patriotism shall consist of a complete adherence to things as they are. . . . Nobody can seriously contend that an advanced position on either side is un-American."

Again H. S. Hudgins, No. 2446 Grenshaw Street, Chicago, asserted:

"Numerous Congressmen were, no doubt, bribed, cajoled or otherwise persuaded to vote for this 18th Amendment against the wishes of their local constituency. How, in the name of heaven, under such circumstances can any one claiming to be a real one-hundred-percent American stand up and ask the people to obey these laws?

"The American working man knows he had no voice in the making of this foolish law and feels that it was procured through fraud. Why should he be forced to obey such a law? That's my personal conviction and I believe that I represent many more."

Thousands of contestants combatted the unwarranted conclusion that the recent presidential campaign was a refer-

endum on the prohibition question. Thus Elmer T. Bell, No. 1954 Columbia Road, Washington, D. C.:

"Some say that the election of Hoover over Smith showed that the United States was overwhelmingly dry. I strenuously contest such a statement, as I feel certain that there were many who voted for Hoover and yet were in favor of a change in the prohibition law. I voted for Hoover because I preferred his training and experience to that of Smith, and not because I wanted the so-called prohibition law continued. I felt that if Mr. Hoover became convinced that prohibition was a failure in its prevailing form he would advocate a change."

Patrolman Edward Collins of Youngstown, Ohio, observing that he had been on the police force for 24 years without "a call on the carpet," wrote:

"Let the honest cop interfere with the bootlegger and he is soon moved. . . . Superintendent McBride of the Anti-Saloon League says the decrease in the wet vote indicates a steady advance for prohibition. Let me tell Mr. McBride that it is an increase of bootleggers and their employes that are voting dry. I know of thousands who drink and yet at an election they will vote dry. The election last fall . . . was a religious fight. A non-Catholic on the Democratic ticket for president would surprise the whole world by the greatest majority ever given a president, that is, if Congress does not repeal the Eighteenth Amendment before that time."

Clyde F. Ward, No. 772 Borthwick Street, Portland, Oregon, reported the results of assiduous research:

"I have in the last few months kept a record of 1,000 short interviews with bona fide citizens and registered voters. Of these, 825 were men and 175 women, and 356 were Republicans, 356 Democrats, and 24 Socialists. The grand total of 789 favored repeal and an entirely different plan to take the place of prohibition."

Although a majority of the contestants were of the belief that the most practical method of solving the problem

lay in modifying the Volstead Act, there were many thousands who advised taking the bull by the horns and not resting until the Eighteenth Amendment had been repealed—this despite the difficulties which they recognized were presented by this method. For example, Arthur C. Campbell, No. 1379 Forty-seventh Avenue, San Francisco, stated:

"I cannot agree with the opinion that any plan which includes an amendment to the Constitution is impossible of attainment. I think it is proven by the experiment of Ontario, that a people are willing to change any law which has proven a failure, no matter how firmly convinced they were originally of the value of that law. . . . This province adopted prohibition by a majority of 400,000 votes. This was reduced at a second election to 200,000, and again this majority was cut in half and prohibition was overturned by the last election by a majority of 40,000. This amazing revulsion of sentiment took place, I think, within eight years. To say that our people can not do likewise under similar circumstances is to impeach their intelligence."

Typical of other plans which urged that the question of prohibition be submitted to the electorate without being coupled with other problems was that of Charles F. Johnson, superintendent of the Luzerne County (Pa.) Industrial School for Boys, who stated:

"It is useless and foolish to hope to repeal the Eighteenth Amendment when the issue is confused by other issues, such as farm relief, the tariff, and law enforcement. Any plan proposed must therefore depend on the issue being placed before the American people on its merits, without confusion."

The age-old conflict between the townsman and the provincial was well-aired.

C. J. Crawford, No. 37 Madison Avenue, New York City, presented an urban view:

"In our system of democracy, any condition which lets Preacher Volstead, from the plains of Minnesota or 'Rube' Jones of the far Northwest write the sumptuary laws and

the moral code of the great metropolitan or urban areas of this country, is manifestly unjust.

"Hoover's election was heralded as a 'dry mandate' until the Wisconsin wet and dry election. The fact is, Hoover's sweeping election was the result of a shameful fanatical application of the blacksnake whip of bigotry and intolerance, to the people of the South, in the spirit of Methodist hatred of the Roman Catholic. I say that as a Protestant, a churchman, and a Republican.

"The Methodists have built on Capitol Hill in Washington a great high building, which towers over the capitol, where they now maintain a permanent lobby, a 'Speaker' Bureau,' a 'petty cash system' by which they 'persuade' and dictate to our government. The Eighteenth Amendment is merely a pretext, a smoke screen under which the Methodist party may intrench itself and tighten its grip on the throat of the Republic."

CHAPTER XI

ACADEMIC DISCUSSION

AMONG many entrants in the Hearst Temperance Contest who frequently contribute to leading periodicals were five eminent lawyers: former U. S. Senator W. Cabell Bruce, Courtlandt Nicoll, Congressman Fiorello H. La Guardia, Henry Alan Johnston and Francis X. Hennessy. Recently published articles of theirs are quoted in this chapter by permission of *Current History, North American Review, Plain Talk* and *Century Magazine.*

Mr. Bruce's article, in the August, 1929, issue of *Current History,* "Enforcement Impossible," was coupled with a rebuttal, "Hypocrisy of Wet Propaganda," by Stanley High, editor of *The Christian Herald.* Which recalls the fact that while a student at the University of Virginia the youth who was to become a distinguished Senator was opposed in a debating competition by one of his fellows who was to become President of the United States and whose literary ability has perhaps not been excelled by any of his predecessors or successors in office—Woodrow Wilson. To young Bruce, as the best debater, was awarded the medal of the Jefferson Literary Society as well as the medal for the best essay.

Extracts from the Bruce article, "Enforcement Impossible," follow:

"Before he was nominated for the Presidency, Mr. Hoover, in reply to a letter from Senator Borah, said that he did not favor the repeal of the Eighteenth Amendment; that he stood for the efficient, vigorous and sincere enforcement of the laws enacted thereunder; that our country had

deliberately undertaken a great social and economic experiment, noble in motive and far-reaching in purpose, and that it must be worked out constructively. . . .

"Later, in his speech at Palo Alto, Cal., when accepting the Republican nomination for the Presidency, Mr. Hoover repeated the words of his reply to Senator Borah, and, after saying 'common sense compels us to realize that grave abuses have occurred—abuses which must be remedied,' added, 'an organized, searching investigation of fact and causes can alone determine the wise method of correcting them.'

"But one thing is certain, and that is that as a candidate for the presidency Mr. Hoover reaped no little practical benefit from the obscurity of the language which we have just quoted, well calculated as it was to awaken sanguine expectations in the breast of the prohibitionist, and, at the same time, at least a reasonable and comfortable hope in the bosom of the anti-prohibitionist.

"It is not too much to say that thousands of voters voted for Mr. Hoover who would not have done so had they not inferred from the wording of his speech of acceptance that what he contemplated at that time was a special investigation into the wide-spread spirit of lawlessness, the social scandals, the official corruption and the waste of human blood for which prohibition is responsible, an inquiry comprehensive enough to determine whether those evils can ever be ended except by ending the dishonored life of prohibition itself.

"The short-lived hopes of Mr. Hoover's wet supporters were completely dissipated by his inaugural address:

'I propose to appoint a national commission for a searching investigation of the whole structure of our Federal jurisprudence, to include the method of enforcement of the Eighteenth Amendment and the cause of abuse under it. Its purpose will be to make such recommendations for reorganization of Federal laws and court procedure as may be found desirable.'

"In other words, the circumstances which made prohibition abuses a matter of supreme and exceptional moment to the welfare of the American people were to be ignored. They were to be investigated only along with legislative and administrative shortcomings in the general field of the Federal criminal jurisprudence which had for a long time, in one form or another, been receiving the remedial attention of crime commissions, bar associations, and many learned American judges and jurists. . . .

"There was to be no inquiry as to whether the Eighteenth Amendment was or was not a wise amendment; none as to whether the Volstead act was an enforceable or an unenforceable statute; none as to whether the monstrous evils and stenches which had resulted from its practical workings were not, after all, but the natural consequences of an irrational ordinance, destitute of all real moral sanction because totally out of keeping with the physical and social laws which make the average man a genial, companionable creature and not a mere sour, self-mutilated ascetic.

"Subsequently, in his address in New York to the Associated Press, Mr. Hoover went so far as to assert that life and property were relatively more unsafe in our country than in any other civilized country, and that our law-enforcement machinery was suffering from many infirmities, arising out of 'its technicalities, its circumlocutions and its involved procedures,' and 'too often from inefficient and delinquent officials,' but that, since of the total number of convictions for felony in 1928 less than eight per cent had come from the Eighteenth Amendment, 'that was only a sector of the invasion of lawlessness.' . . .

"In that year, violations of prohibition laws in the United States were punishable as felonies to only a limited degree. It remained for the execrable Jones law of the present year to bring within the grade of felony not a few violations of the national prohibition law, though happily courts and juries do not seem to know exactly what to do with the Jones law, now that it has been given to them.

"Mr. Hoover would have been franker had he told the American people that, during the fiscal year ended June 30, 1928, 72 per cent of all the convictions in the Federal courts in criminal cases of all kinds, whether involving felonies or not, were obtained in prohibition cases. The effect of the thousands of lawless acts, represented by such a vast body of convictions as that, could not fail to give such an impulse in 1927-1928 to the spread of a lawless spirit throughout the United States as no other single cause could have done. . . .

"To abolish drink altogether because human nature craves drink as it does food or anything else that ministers to the gratification of our physical senses, and because the human reason, except in the contracted brain-pan of the prohibition fanatic, disdainfully rejects the idea that the fact that twenty men cannot drink in moderation is any good reason why the very great and legitimate pleasure of drinking should be denied to 10,000 men who can. . . .

"The truth is, it cannot be too often repeated, all our corporeal propensities and appetites—every one—are ever tending to excess, and the belief that any of them, which can be indulged in by the vast majority of human beings with no result except the enhancement of innocent human enjoyment and happiness, should be prohibited is an artificial, not to say morbid or fantastic conviction which no government, however powerful or tyrannical, can ever enforce except at a cost in terms of money and wholesome personal liberty entirely at variance with the general traditions and lessons of human progress. . . .

"No law, of course, should be lightly disobeyed. Only an idiot or a congenital thief does not realize that. But Edmund Burke has truly said that the worst tyranny is that of a bad law, and the ordinary American would be a much less intelligent individual than he is if he could not distinguish a manifestly unworkable law from a sound one, and had not grasped the fact that it is not by indiscriminate, unmurmuring obedience to laws, good or bad, such

as Mr. Hoover counsels, that bad laws are repealed or reduced to innocuous lifelessness, but by outspoken condemnation, protest and, in such extreme cases as the British navigation or stamp tax legislation, our own 'blue laws' and prohibition, even by actual violation and public contempt.

"Supine popular submission to the Eighteenth Amendment, such as Mr. Hoover inculcates, would simply be cited by the prohibitionist, and perhaps by Mr. Hoover himself, as conclusive evidence of the fact that it is both a wise and enforceable declaration of public policy. . . .

"With due deference to Mr. Hoover, the wisest thing, in my humble judgment, that he could do would be to recall the restrictions that he has imposed upon the deliberations of his commission, relating to prohibition, and to leave it free, if the facts should warrant such a conclusion, to report that the gravest obstacle to the enforcement of the Eighteenth Amendment is the Eighteenth Amendment itself. . . .

"As it is, the only hearty endorsement that the prohibition enforcement ideas of Mr. Hoover have been given would seem to be that of the twenty-four business men, including Henry Ford who came out in a public letter with respect to them in the early part of last June. In some particulars, a more inept group of advisers for such a man as Mr. Hoover could hardly be imagined. . . .

"To begin with, the sympathy with prohibition of some at least of the most conspicuous members of the group just mentioned, is, doubtless, due to the fact that, like myself, they have reached the advanced age from which La Rochefoucauld's cynical maxim that sobriety is a physical incapacity for strong drink derives no little of its point. For this and other reasons, it is fair to infer that some of the group would have been prohibitionists even if, because of their special callings, they had not been peculiarly interested in straining every point, however nice, to promote unremitting habits of industry on the part of their employes.

"Such a group could hardly be expected to have much toleration for the view of the English Archbishop who said that he would rather see England free than England sober, or for the general consideration of sound policy, including the frequency with which great captains of industry maintain well-stocked cellars, while urging their workers to be teetotalers, which has, time and time again, impelled the American Federation of Labor to denounce prohibition and all its depraved sequels.

"If it is true that industrial workers are soberer now than they were before the adoption of the Eighteenth Amendment, it must be either because less saloon spirits and more home-made wine are now being consumed by them or because the steadily increasing self-restraint, bred by the general advance of human civilization and stricter industrial regulations and oversight which set in among our industrial workers even before the adoption of the Eighteenth Amendment, is simply crescively continuing, despite the deplorable reactions against temperance, in many respects, set up by prohibition. But it cannot be true that any improvement has taken place in the drinking habits of our industrial workers that might not just as well, or even more notably, have taken place, with the onward march of human progress, had the Eighteenth Amendment never been adopted.

"The annual reports of the Moderation League, based on statistics obtained from the Chiefs of Police of hundreds of American towns and cities, show that annual arrests for drinking have been ascending to higher and higher totals in the United States since the adoption of the Volstead act. Does any fair-minded man doubt that industrial workers contributed to these totals a volume of arrests fully proportionate to their own numbers?

"The last quarterly report of the Metropolitan Life Insurance Company evidences the fact that deaths from alcoholism, among its 18,000,000 industrial policy holders have, with a negligible fluctuation or so, steadily risen from year

to year since the enactment of the Volstead Act, and during the first three months of the present year reached the highest level since 1917. This report shows, moreover, a lower death rate among the industrial policy holders of the company in Canada, where prohibition prevails in only two small Provinces, than among its industrial policy holders in the United States where prohibition is at least officially assumed to be everywhere in full force.

"With facts like these before him, Mr. Hoover need not fear that the repeal or modification of national prohibition would be followed by any marked moral retrogression in the matter of drink on the part of our industrial workers."

Courtlandt Nicoll, distinguished lawyer of New York City, was formerly a State Senator. Mr. Nicoll played a leading part in organizing the much-discussed Committee of Legal Volunteers at New York, which offers free legal aid to defendants in Jones Law cases and which has become a national organization with offices in many cities.

In a featured article in the *North American Review* for June, 1929, Mr. Nicoll suggested that the Jones Law is one of the most effective steps yet taken for the eventual nullification of the Eighteenth Amendment.

The following quotation is from the Nicoll article, "The Farce of Enforcement":

"*'No man has the right to set up, or affect to set up, his own conscience as above the law.'*

"Looking back through history, would the people who hold this point of view today, have been for 'law enforcement' when Christianity was a crime? Would they have been for the enforcement of the laws against heresy and witchcraft? Would they have denied to Americans the right to independence? Would they have sent the slave back to his master, or shackled the South with Negro domination, supported by military power? I think not.

"As Seward replied to Webster, 'There is a higher law than the Constitution.'

"What is going to happen? More laws? Larger appro-

priations? Heavier penalties? They amount to nothing. 'It is useless,' as Calvin Coolidge said, 'to attempt to dragoon the body when the need is to appeal to the soul,' and the soul cannot be terrorized into obedience, or persuaded to it, by the plea that it must uphold the law. As Pliny pointed out, 'persecution . . . causes a crime to spread.'

"People who are conscious of no moral wrong resent being held in restraint, and intelligence revolts at the command to consider acts wrong or harmful when the common experience of mankind proves that they are neither.

"The fact is that the Federal Government, in prohibition matters, is like a huge battleship in shallow waters, manned by a disloyal crew and engaged in a guerilla warfare against an outwardly friendly, but secretly rebellious people. Her fighting ability is not increased by heavier armor, larger cannon, additions to her personnel, or by hoisting more flags, though they lessen her manoeuvering ability. Once in a while one of her great guns goes off, hits the mark, and a man or woman goes to jail. But mighty as she is, she is powerless because not used for the purpose for which she was constructed.

"The first thing to do is to get the ship into deep water again; that is, to take the National Government out of the shoals of trying to secure an ambitious moral reform by the enforcement of a criminal law enacted by a Government of limited power. When the temperate people are convinced that their objective cannot be obtained by Federal penal legislation, no matter how many laws they pass, or how severe they make them, we will have accomplished the first step toward a reform of the present conditions.

"Fortunately, the 'Jones Law,' placing heavier penalties on certain acts made criminal by the National Prohibition Statute, has created a situation whereby the country may be impressed with the futility of the whole effort."

Since the Jones Act has removed prohibition offenses from the misdemeanor class and made them felonies, offenders will be tried by jury. Mr. Nicoll believes that the grand

juries will not indict and the petit juries will not convict. As a result "the Eighteenth Amendment and its 'Enforcement Acts' will join the Fourteenth and Fifteenth Amendments and the 'Enforcement Act of 1870' in our museum of legal history. They may be used intermittently for blackmail, but the wholesale hypocrisy and corruption that are the necessary by-products of a great effort to secure moral reform by criminal law will disappear."

The gist of the proposal which Mr. Nicoll entered in the Hearst Temperance Contest was:

"That the Eighteenth Amendment be amended to read as follows:

> [After one year from the ratification of this article] *except as authorized by Congress* the manufacture, sale or transportation of intoxicating liquors within, importation thereof into, or the exportation thereof from the United States and all territory subject to the jurisdiction thereof for beverage purposes is hereby prohibited.

"In order to show the exact nature of the amended proposal I have adopted the legislative practice of enclosing the old, unnecessary matter to be omitted in brackets, and indicating the new matter to be inserted by italics.

"Were this suggestion adopted no power which the Federal Government now has would be taken away. In fact, its power to pass prohibitory statutes governing both interstate and foreign commerce, as well as the traffic in intoxicants within each State, is continued, and no change could be made in the present laws until Congress authorized it.

"But under it organized society might, to the extent and in the manner authorized by the National Legislature, regain those powers of regulation which it formerly possessed in this country and has everywhere else but which were taken away by the Eighteenth Amendment.

"The responsibility would not, however, be divided as

heretofore between the National Government and those of the several states except to the extent that Congress permitted. Ultimate power would always remain in the National Legislature.

"The suggestion materially differs from Governor Smith's, made last Fall, in that it does not commit the country in advance to the State sale of intoxicants as the single alternative to Prohibition. That plan, the Swedish plan or those of any of the Canadian provinces could be tried. The Government would be free to adopt, improve or to disregard any scheme it desired. Prohibition could be continued in the manner and to the extent that states or lesser communities desired it. Elsewhere intoxicants could be legalized in the manner and to the extent deemed necessary to give the public control.

"Revenue to secure enforcement of the prohibitory laws and of such regulations as might be imposed could be derived from the business itself. . . .

"It is obvious that as long as the Eighteenth Amendment retains its present form, no tinkering with the Volstead law can accomplish real reform. If the legal definition of intoxicating liquor is modified alcoholic beverages would be divided into two classes. Those of the higher alcoholic content would be prohibited and hence continue to be sold in violation of law and largely beyond its control.

"The sale of those under the limit must remain wholly unregulated because if they are intoxicating in fact the amendment forbids their regulation. Should the Federal Government confine its activities within state borders to aiding in the enforcement there would be made and sold in states where no state prohibitory law existed all sorts of intoxicants which could not be controlled in any way because the amendment has deprived the states of their former authority.

"In short, all modification of the Volstead Law under present constitutional restrictions necessarily results in taking more power from organized society."

Major Fiorello H. La Guardia is a Representative in Congress from New York City. During the World War he commanded the American Flying Force on the Italian front. In 1919 he was elected President of the Board of Aldermen of New York City. As this book goes to press he is the regular Republican nominee for Mayor of New York. Congressman La Guardia submitted a plan which he has embodied in a measure introduced in Congress.

The basis of his objections to the prohibition laws are well summarized in an article, "Where Has Our Constitution Gone?" which appeared in the August, 1929, issue of *Plain Talk*. Commenting upon this article in a prefatory note the editors stated:

> The public has lost the guarantees of the Fourth, Fifth, Sixth, and Tenth Amendments by the action of the United States Supreme Court on Prohibition cases, and virtually the whole Bill of Rights has been under fire and often shattered. The Supreme Court has approved the only amendment in the Constitution which is not a guarantee of rights, which is actually a denial of rights; and, further, the Supreme Court has wrecked previous guarantees to enforce the denials of this Eighteenth Amendment. The Supreme Court has simply been swayed by propaganda—and not for the first time in its existence—and it now threatens the whole structure of constitutional government.

Extracts from Mr. La Guardia's article follow:

"On June 4, 1928, five judges of the United States Supreme Court planted the banner of the Eighteenth Amendment on the smouldering ruins of the rest of the Constitution, and ordered a truce for the summer. The groans of the four dissenting judges and of all the editorial writers in the country failed to defeat the martial holiday.

"The wire-tapping case (Olmstead et al vs. United States, 277 U. S. 438) is important for several reasons. It marks the climax in the eight years of warfare between the spurious Federal policeman and the citizen whose sense of right and wrong is that of the nation's founders. It shows how

far adherence to precedent can take judges away from the facts of life around them. It shows what a fragile bulwark against governmental tyranny the Fourth Amendment really is. And it presents the astounding spectacle of our highest judicial tribunal sanctioning criminal conduct on the part of the Federal government in order to put down unlawful conduct on the part of the individual.

"What happened is well-known. A conspiracy of bootleggers on the Pacific coast to smuggle $2,500,000 worth of liquor annually from Canada to the United States was thwarted by Prohibition agents, who obtained their knowledge of the scheme by listening in on telephone conversations of the suspected parties. The Federal agents violated the Washington State law in tapping the wires, and the Fourth Amendment of the Constitution is supposed to protect every person from unreasonable search and seizure. Yet this illegal invasion of the fundamental right of privacy was upheld as a valid means of obtaining the evidence necessary to convict persons accused of violating the Eighteenth Amendment. The case comes at the end of a long line of cases which have brought disrepute on the Supreme Court for looking at the Eighteenth Amendment as if it were the whole Constitution. . . .

"The Supreme Court has glorified the Eighteenth Amendment, and has permitted it to triumph over all other amendments—including the Tenth. . . .

"On January 5, 1920, the Supreme Court upheld the right of the Federal government to render useless all the liquor-manufacturing plants in the country, and deliberately ignored not only the solemn words of the Fifth Amendment: 'Nor shall any person be deprived of life, liberty, or property without due process of law; nor shall private property be taken for public use, without just compensation'; but also the Tenth Amendment: 'The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.'

"It was not until six months after the Ruppert case that the Supreme Court was confronted with Rhode Island vs. Palmer and allied cases involving the validity of the Eighteenth Amendment itself, both as to the manner in which it was passed and as to the constitutional eligibility of a mere police regulation. Those cases were decided in favor of the government, but the decision was handed out to the public in the form of a mere recital of conclusions, the court deeming it unwise to give the reasons for denying the powerful arguments of Root, Guthrie, Levy Mayer, and all the other legal giants who had been aroused to inspired heights by this invasion of fundamental guarantees. . . .

"In the Everard case (Everard's Breweries vs. Day, 265 U. S. 545) physicians are prevented from prescribing any malt liquors for medicinal purposes, and in the Lambert case (Lambert vs. Yellowly, 272 U. S. 581) physicians are prevented from prescribing more than one pint of spirituous liquor to the same patient within a period of ten days, regardless of the bona-fide physical distress of that patient.

"'There is no right to practice medicine,' said the court, 'which is not subordinate to the power of Congress to make laws necessary and proper for carrying into execution the Eighteenth Amendment.' Which is policing with a vengeance!

"No wonder the country laughs at Congress! . . .

"Into the sanctum of the Supreme Court came lawyers representing British and Canadian interests to find out if it were really true that they could no longer transport liquor from Canada by train to ships leaving American ports, or from one British boat to another in American harbors. Such transportation had, prior to the National Prohibition Act, not only received the sanction of Federal law, but was protected by a special treaty with Great Britain. All of which made no difference, and the lawyers were so informed.

"All the provisions of the Act (read the opinion) are to

be liberally construed, to the end that the use of intoxicating liquor as a beverage may be prevented. . . . It is obvious that those whose wishes (Does the Court mean the Anti-Saloon League?) and opinions were embodied in the Amendment meant to stop the whole business.

"And treaty or no treaty, the legal international transportation stopped. . . .

"Turning now from the idea of Federal usurpation of governmental functions which treads on the toes not only of forty-eight States but of almost every foreign power, let us look at the individual citizen and his erstwhile rights under the Fourth, Fifth, and Sixth Amendments. What about his right to trial by jury? Well, he gets a jury trial in criminal proceedings under the Volstead Act as well as under any other statute, but he may be subjected to more than a criminal prosecution alone.

"The Volsteadites took care of the weak spots in the armor when they dressed for the hunt. They provided in their noble act that liquor-peddling establishments should be deemed a 'nuisance,' and then they provided for injunctive relief to abate all such nuisances. There is no jury in an injunction, or padlock, proceeding. And so the accused one, be he innocent owner or guilty tenant, in effect finds himself deprived of a substantial right by the government's merely changing the form of its remedy against him.

"And the same is true of the automobile forfeiture proceedings which clutter up the dockets of the Federal courts, and reveal by their very names the overwhelming odds in favor of the government: United States vs. Automobile; United States vs. Motor Boat.

"Then there is the double-jeopardy provision—the right to be free from being dragged to the bar of justice twice for the same offense. That was badly shattered when the Supreme Court saw fit to applaud one case of the government's persistently hounding a liquor-selling suspect. The

suspect was prosecuted under the criminal section of the Volstead Act, but was there acquitted.

"Nothing daunted, the Federal authorities brought injunctive proceedings against him, and the Supreme Court held that the first trial was no bar to the second one, although the same evidence was adduced to prove the same facts in both.

"A case that came up to the Supreme Court from Louisiana in November, 1926, reveals vividly the judges' approach to the whole Prohibition problem. The question was whether a person who had been tried in the Federal court for violation of the Volstead Act could be tried all over again for the same offense in the State court for violation of the Louisiana Prohibition Law. The court held he certainly could—that where one offense was two offenses there was no double jeopardy. It was a strained and harsh ruling, and one obviously designed to penalize liquor-law infractions.

"Notice the willingness of the court here to permit the two Acts, Federal and State, to stand together when the State law is also punishing the culprit, as compared with the court's unwillingness to let them stand together when the State law is more lenient with the thirsty than is the Federal law.

"As to the individual's right not to be compelled to give evidence against himself, that is booted away in every case where an unwarranted search is made and liquor seized. But it was especially trampled on in a unique case which came to the Supreme Court late in 1927. The question to be determined was whether profits from illicit liquor-traffic were subject to income tax. It was decided that they were so subject, even though the commission of crime was a prerequisite to liability for the tax, and even though the making of a return amounted to producing incriminating information which would lead to criminal prosecution. . . .

"It is, however, in the matter of Search or Seizure, that fundamental guarantee of the right to be let alone and be

secure in one's person and property preserved by the Fourth Amendment to the Constitution, that the Supreme Court inflicts its severest beatings on the rights of the individual. The nature of this intrusion is particularly repulsive to the idea of personal liberty, and the number of times it is made is particularly high. . . .

"Clouding the real issues with mystifying phrases, the Supreme Court has paved the way for the complete destruction of the Fourth Amendment. Unwarranted arrests and unwarranted searches were upheld and encouraged. When made by unauthorized persons, such as city policemen or state troopers, they were 'adopted' by revenue officers where the prosecution was brought under the Internal Revenue Law, and by Prohibition agents where the prosecution was brought under the Volstead Act. Practically all constitutional safeguards against successful oppression were overthrown. License was on the loose. It sported the official seal. And government of the government, by the government, and for the government was in no danger of perishing.

"Such, then, was the state of affairs when the wire-tapping case came before the high tribunal. Tapping telephone wires was a novelty. No case conjuring up the Fourth Amendment to preserve the right of privacy had ever dealt with the tapping of telephone wires. And so it was decided that that particular form of governmental meddling did not come within the protection of the Fourth Amendment, despite the fact that wire-tapping is probably the most subtle and far-reaching means of invading one's individual rights yet devised. And despite the further insignificant fact that this particular form of official snooping and spying constitutes criminal conduct itself. The privacy of the mail is next on the list of violations.

"The wire-tapping case is a sturdy argument for the out-and-out repeal of the Eighteenth Amendment. As long as it stays in the Constitution the judges will discard their judicial robes for the policeman's uniform, and will join

with the prosecution in assailing any and all persons accused of flaunting it.

"Mere modification of the enforcement laws will do little good. The decisions of the last eight and a half years are too firmly planted in the law of the land to be brushed aside by a change made here and there in the Volstead Act.

"Remember that it is the Court and not Congress that really makes the law, and that all Acts of the latter are interpreted by the court in the light of its high esteem for the Eighteenth Amendment.

"Remove the Eighteenth Amendment entirely and let the judges get back to the determination of those constitutional questions which gave them trouble enough before the liquor litigation swamped them. The process is a tedious one, but if it will save the rest of the Constitution it is well worth the effort."

Henry Alan Johnston is a member of the law firm of Gibboney, Johnston & Flynn, No. 49 Wall Street, New York City. In a featured article which appeared in the April, 1928, issue of the *Century Magazine* Mr. Johnston asserted, "The Eighteenth Amendment Is Void!"

"In March, 1920," he wrote, "less than two months after the Eighteenth Amendment became effective, its validity was attacked in the Supreme Court in the case of Rhode Island versus Palmer. This was a test case.

"Eminent counsel appeared on both sides. Voluminous briefs were filed, and the Court listened to argument for five days. In June, it announced its decision; a decision unique in the annals of American jurisprudence.

"It was the first case in the entire history of the Supreme Court where that tribunal disposed of a question involving the original construction of a provision of the Constitution without giving any exposition whatever of the reasoning by which it reached its conclusions.

"By a judicial wave of the hand, as though it were a magistrate's court, it ignored the arguments and briefs of

counsel, the interest and expectancy of the citizenship of the country, the revolutionary effects on the habits of the people, the vast amount of property involved, and the important consideration of the powers and duties of the National and State Governments, and merely announced the ultimate conclusion that, as it had been adopted in accordance with the provisions of Article V of the Constitution prescribing the procedure for necessary amendments, 'the amendment, by lawful proposal and ratification, has become a part of the Constitution, and must be respected and given effect the same as other provisions of that instrument.'

"That decision was not only wrong in principle and legally unsustainable, but it constitutes the most dangerous and far-reaching attack against representative government in America since the Stamp Act of 1765.

"It not only violates the fundamental principle of representative government which is the keystone of the Republic, but it also violates the express guarantee embodied in the Constitution explicitly in Article IV, Section 4, that 'The United States shall guarantee to every State in this Union, a republican form of government.'

"This is a guarantee running to each and every State in this Union. It is a guarantee which cannot be waived for any State by the combined action of all the other States in the Union. It is a guarantee which runs to the States of Connecticut and Rhode Island as specifically as if they had been mentioned by name; and only they themselves may waive that guarantee so far as it affects their sovereign rights.

"It is of the essence of the compact—otherwise the people of Rhode Island or Connecticut might by the action of three-fourths of the States, have thrust upon them a monarchical form of government or a dictatorship or some other form hostile to the republican theory. Such a thing can be accomplished only by revolution. It cannot be done by Constitutional amendment.

"Rhode Island and Connecticut have not ratified the

amendment, although attempts have been made at each session of their legislatures to persuade them to do so. . . .

"The two most distinguishing characteristics of the Constitution are, first, that the government so created is one of delegated powers; and second, that its basic theory is representative democracy, a retention of the principle of self-government, but exercised, for convenience, through representatives chosen directly or indirectly by the people, the powers of government residing always in the people as the ultimate source. . . .

"That the Federal Government is a Government of delegated powers is a principle so universally acknowledged that any extended discussion of it must necessarily seem trite. The mere reading of the Constitution is evidence enough that the Government of the United States has its authority in powers enumerated in the Constitution as having been transferred by the people for the purposes of the Union from their State branches, be they legislative, executive or judicial, to similar branches of the Federal Government; the Federal Government so formed, being an enlarged replica of the State Governments, similarly divided in its three branches, and supreme in such matters as are delegated to it either expressly or by implication, but exercising no other powers; the residue of all the powers of sovereignty being reserved by the people for exercise through their several State Governments.

"In this dual system of Government it is apparent that whether the powers are delegated to the National Government or retained in the State Government, they are in any event to be exercised through the medium of representatives of the people acting for them either in Washington or at their State Capitol.

"That there might be no mistake about this matter there was inserted in the body of the Constitution as a specific guarantee, Article IV, Section 4, 'The United States shall guarantee to every State in this Union a republican form of Government.'

"The Eighteenth Amendment as construed in Rhode Island versus Palmer expressly violates that guarantee, is therefore void as against a non-assenting State which was a party to that guarantee, and if forcibly carried out within its territory, is revolution. . . .

"Gambling is certainly a vice which causes as much misery and suffering as almost any other vice of which we can think. Anti-gambling statutes of great rigor have been enacted by many of the States, prohibiting their citizens from engaging in this passion in any manner whatever. It is conceivable that by a Constitutional amendment Congress might be empowered to limit, regulate and prohibit gambling in all its forms in all the territory subject to the jurisdiction of the United States, thus effecting a further relinquishing of the police powers of the individual States; and three-fourths of the States can effect an amendment on that subject which will be binding on the other one-fourth, without a doubt.

"Illustrations might be multiplied; but to the most casual reader, the distinction between such amendments, from a Constitutional standpoint, and the so-called Eighteenth Amendment must be apparent.

"The Eighteenth Amendment was not a delegation of power to the National Government empowering it to limit, regulate and prohibit the trade in intoxicating beverages, thus transferring a power from the States to the National Government. It was an attempt, by means of following the strict letter and form provided in the Constitution for creating necessary amendments, to abolish a power which previously existed in the States, and, instead of transferring the power to deal with the subject matter to Congress, to extinguish the power of dealing with it altogether; not a readjustment of government, but a denial of government. . . .

"As thirteen States can block the repeal of an amendment we are now confronted with the possibility of Arizona, Delaware, Idaho, Montana, Nevada, New Hampshire, New Mexico, North Dakota, South Dakota, Rhode Island, Utah,

Vermont and Wyoming, which all together have a population of only 5,302,802 or about five per cent of the total population of the United States, standing pat and effectually defeating the will of 100,407,818 people, or ninety-five per cent of the population.

"An interpretation of the Constitution which leads to any such fantastic conclusion should be ample notice to any court that there must be something radically wrong with the theory from which it was deduced. Such a possibility, moreover, cannot be the result of an oversight on the part of the framers in 1787. Every eventuality of government was studied and weighed by them, debated from every angle and scrutinized by the greatest group of political philosophers ever gathered together in any one period in the world's history. They drew the instrument so that such a governmental absurdity was impossible under any rational interpretation. Indeed, such a ridiculous possibility was inherent in the Articles of Confederation, was foreseen and debated in the Convention, and was expressly guarded against in the Constitution. . . .

"The only remedy for the governmental snarl which has been created by this Amendment, is a suit by the State of Connecticut or the State of Rhode Island for the recognition of the constitutional guarantee which they have, up to the present time, refused to waive by a ratification of the Amendment.

"The Supreme Court, will, upon the presentation of such a case have a duty to perform, a duty to reconsider this question and not only render an opinion which shall authoritatively settle the constitutional status of the Amendment, but to make known publicly and on the record, the reasoning on which its decision is based.

"Until that tribunal has decided and expounded the constitutional question as to the extent which the people of a State may without their consent be deprived of their right of representation, in the face of the express constitutional guarantee of a republican form of government, the discus-

sion of the religious, the economic and the sociological aspects of the liquor problem merely beclouds the issue."

Francis X. Hennessy is a noted lawyer of New York who is rated as an authority on the Constitution of the United States. His name came to the fore recently when a bill was introduced in the Rhode Island Legislature, March 15, 1929, to contest the constitutionality of the Eighteenth Amendment in the United States Supreme Court. It is generally understood that the Rhode Island move was largely based on Mr. Hennessy's authoritative treatise "Citizen, or Subject?"

This book is devoted to the argument that the Eighteenth Amendment does not exist, that it is without legal foundation since it runs contrary to the original articles of the Constitution. In it Mr. Hennessy emphasizes the important distinction between Federal powers which only concern the States as political entities and national powers which restrict individual liberty. He points out that the framers of the Constitution did not for a moment confuse national and Federal powers. The First Article embodies all the national powers so that the Constitution could not be construed as all-embracing.

To quote Mr. Hennessy:

"The very first article of the Constitution states positively that the entire document gives power to make law only to Congress—none whatever to any other legislature or legislatures. From this first fact Rhode Island proceeds with the inevitable conclusions that the thirty-six State legislatures—supposed to have made the law called the Eighteenth Amendment—could not possibly have been given the power to make that law in the fifth article of the Constitution, which gave the State legislatures no power to make any law.

"After which two clear facts, the authorizing act introduced in Rhode Island points out that the entire illusion that there is an Eighteenth Amendment rests wholly upon the sheer and nonsensical assumption that this fifth article

did give the State legislatures power to make this law called the Eighteenth Amendment and every other conceivable law against human rights.

"The assumption introduced to the citizen of America a hitherto unknown and new parliament, consisting of any thirty-six State legislatures acting in combination and vested with power to legislate against our human rights in every matter we did not enumerate in the Constitution we made in our conventions of 1778.

"The challenge of Rhode Island to the existence of an Eighteenth Amendment is the negation of the assumption that the Fifth Article created such a Parliament or that we have such a Parliament in America."

The Assembly of Rhode Island has yet to authorize the Attorney-General to bring the new litigation. This failure, it has been broadly hinted, was the result of a peremptory message despatched from the national capital a few hours before the bill was scheduled for passage. The bill was dutifully squelched in committee on orders from the chiefs of the Republican party, an acknowledgment that it was full of dynamite so far as the future of prohibition was concerned. However, the logic of the Rhode Island stand has not been successfully assailed nor is there any likelihood that Mr. Hennessy will be compelled to retreat from his position.

That the prohibition amendment is unconstitutional, or else lapsed in 1924, are the chief points pressed in the plan which Mr. Hennessy entered in the Hearst Temperance Contest. He asserted:

"1. The proposal by Congress that others enact the amendment was so worded, as to require a 'Yes' from all forty-eight State Legislatures, to make the Amendment. Two Legislatures, those of Rhode Island, and Connecticut have not said, 'Yes.' So we have no Amendment.

"2. Since January 16, 1919, all claimants for the 'parliament' viewpoint have insisted that thirty-six Legislatures made the Amendment on that day. In which case the com-

mand of that thirty-six on that day in the Amendment itself was that it should become 'inoperative' in December, 1924, unless the other twelve Legislatures also said, 'Yes.' So the Amendment ceased to be operative December, 1924.

"3. A blunder of Senator Warren G. Harding, in which blunder the late Wayne B. Wheeler participated in 1917, brought about the later command from the thirty-six Legislatures in 1919 that the Amendment would become 'inoperative' in 1924 unless the remaining twelve Legislatures had then ratified the Amendment. The blunder was that of writing a time limitation into the proposed Amendment to be made later by the State Legislatures, instead of writing the limitation into the proposing resolution to be made by Congress in 1917.

"4. In 1922, the Anti-Saloon League knew the trouble about the requirement in the proposing Resolution of Congress and the trouble about the command in the Amendment itself that might cause it to become 'inoperative' forever in December, 1924. In 1922, the Anti-Saloon League was working feverishly to get ratification from three Legislatures which had not ratified, the Legislatures of Rhode Island, Connecticut and New Jersey."

As a special contribution to the more philosophic side of prohibition discussion, Robert Athey, of No. 100 Wall Street, New York, editor of the magazine *Freedom,* prepared for this volume a summary of the results of his long study of the prohibition problem, after he had made a careful inspection of the winning plans in the Hearst contest. Without quotation marks, his interesting views are subjoined:

After more than a hundred years of temperance education substantial benefits were everywhere apparent in the United States at the beginning of the XXth Century. Not only was temperance held to be a primary moral virtue but also an economic necessity.

Labor unions had long admitted drunkenness to be a justifiable reason for discharge. Courts recognized it to be

THEY TRIED TO FOOL US BUT IT DID NOT WORK
WE WERE TOO SPRY FOR THEM, I'LL SAY!
HAND THE LIQUOR OUT WHEN YOU FIND IT.
I DON'T SEEM TO FIND ANY LIQUOR
THERE AINT A DROP OF ANYTHING BUT MILK IN HERE
DID YOU LOOK CAREFULLY ALL AROUND THE CAR?
OLD MAN GABSON TOLD ME HIS SISTER'S GRANDSON HEARD A MAN SAY HIS WIFE'S FATHER SAW LIQUOR —
WE JUST HAVE TO TAKE CHANCES THAT'S ALL— UM IT'S TOO BAD! —
WE ARE DOIN' OUR DUTY AS WE SEE IT! IT CAN'T BE HELPED

AND THERE WAS NO LIQUOR

a cause of action in domestic affairs. Not only railroads but utility companies, banks and industrial concerns held that an employee found drunk, even though not on duty at the time, should be discharged. Intemperate drinking undermined a man's reputation and credit. We were becoming a sober nation. We were becoming a temperate nation because the teaching of temperance had caused us to look with disgust upon intemperance and to appreciate the value of moderation. We, as a people, were learning self-control and the development of character. The spirit and purpose of the cause of temperance found cordial reception in every quarter, for it was recognized as a true, earnest and conscientious effort for the universal betterment of the people.

Then, against the protests of many learned and ardent advocates of temperance, the doctrine of moral restraint which was effective was abandoned for political prohibition. The moderate use of intoxicants, which had the sanction of time and custom, was declared to be sinful in spite of the teaching of the Christian Church from the day of its inception. Sectarianism and heresy born of ignorant and bigoted religious prejudice denied the teaching of the church and by far-fetched misconstructions contradicted the very words of Jesus Christ.

Demanding nothing less than total abstinence the intemperate reformers usurped power in the Name of God and employed ways and means that were entirely without justification to accomplish over-night a reform of questionable value. They rejected the principles of sobriety, moderation and temperance which were proving themselves to be the foundation of positive spiritual and material advancement, and substituted for them the rule of brute force and coercion.

This unasked-for and unpractical attempt at reform offended and alienated the people by the intemperance of its demands and the unwarranted assumption of authority on the part of the reformers. The statutes enacted under their dictation were laughed at as absurd. They were never re-

garded by the mass of the people as laws in the true sense of the word but were considered in the light of treacherous encroachments on and denials of the most sacred constitutional rights. Instead of accomplishing good they provoked evil. Their intemperance undermined the work of a century and the good substantial results of the long temperance campaign were undone.

Before the bone-dry group assumed the custody of the public conscience and the direction of the government of the United States and turned them both upside down we at least knew where we were. That under the old regime conditions were not satisfactory is quite true, but it is also true that today they are far more unsatisfactory and are steadily growing still worse. Formerly it was agreed among the great mass of the people that certain evils existed and they must be abated, and we were proceeding slowly but surely toward the accomplishment of this end, and what gains we did achieve we held. But now, the new experimental methods have provoked so much dissension and hostile disagreement that none of them could be effective even if they were sound in principle, and there is a strong popular distrust of anything which emanates from a group whose impatience with the real advances gained made them willing to sacrifice these and throw everything into chaos. Drinking and drunkenness have not been abolished. On the contrary they are increasing. Drinking in a clandestine manner, in low dens and vile surroundings and above all in a spirit of rebellion and defiance rather than of genial good fellowship has become the practice of a large and increasing number which includes a multitude of children. The teaching of temperance is forgotten, restraint is thrown to the winds, intemperance is a joke and drunkenness an achievement. Not only are prohibitory laws violated and treated with contempt, but a general lack of respect for all laws has resulted. We are becoming a lawless nation.

Is it not time to return to the sound teaching of true temperance and moderation? Ought we not, as sensible men

and women, to take into account the inherent detestation of coercion that exists in all men and return through methods of persuasion to lead the people back into the paths of sobriety instead of attempting to flog them into total abstinence? Should not the young be warned against the dangers of disreputable dives and the poisons of contraband beverages instead of hypocritically pretending that they do not exist? Should not the lawlessness bred by the prohibitory enactments be squarely faced and the responsibility laid where it belongs at the door of the headlong and officious reformer who tried to grasp everything only to lose all? Is it not time to return to the tried and true principles of sobriety, temperance and moderation, gather together again the shattered remnants of our former gains and build once more on the foundation of a sane, sober and sensible law that the people will respect and obey?

The sometimes satirical *New Yorker,* the smartly amusing metropolitan weekly which long has published the current bootleg liquor quotations with meticulous fidelity, was spurred to action mayhap by the long chain of cold-blooded killings by prohibition agents when it published from the pen of Corey Ford a possibly overdrawn, but nevertheless compelling cynicism, entitled, "Good Hunting," in its issue of August 3, 1929. After all, art has been described as intelligent exaggeration. We are indebted to the courtesy of the author and of the editors of *The New Yorker* for permission to reproduce this sinister moonlight sonata:

> The scene is a small Hunting Lodge near the Canadian Border, and it is occupied at present by a couple of Prohibition Agents who have come up for the shooting. One of the nicest things about Prohibition is the way it has awakened an interest in shooting among our Border Patrolmen and Coastguardsmen, and taught them to get out into God's great green outdoors and handle a gun. If it had not been for the Eighteenth Amendment, these officials would doubtless be wasting their time today rifling poor-boxes or setting fire to orphan asylums in a hot stuffy city.
>
> The Hunting Lodge in which our scene takes place is

furnished with leather settees, gun racks, and a stone fireplace, over which are a pair of crossed rifles, an American flag, and an autographed photograph of Seymour Lowman. There are two occupants of the cabin. The first is a Customs official named Emmet, who is clad in regulation old khaki pants, corduroy coat, dirty cap, and a black mask with two holes for eyes. His companion, a Prohibition Agent named Roy, has just arrived from Aurora and is still in uniform.

As the curtain rises, they stretch their hunting boots toward the crackling blaze, and sip a couple of rye highballs luxuriously.

ROY (*smacking his lips*)—Sure beats Illinois rye, Emmet. Where d'ja get it?

EMMET—We shot a bootlegger by mistake, under the impression he was a private citizen.

ROY—Tst! Tst! Tst! (*He glances at his watch.*) Say, ain't it almost time we got out on the trail?

EMMET—Naa, it's too light yet. There's no use trying to stop them while they can still see you.

ROY (*wistfully*)—Gee, I haven't killed anything for weeks.

EMMET—Well, just be patient, old man. That's what you come up here for. (*He glances at Roy critically and shakes his head.*) Afraid you'll have to take that uniform off, though. You'll scare all the game.

ROY—What's the matter with it?

EMMET—They'd see you was a Government agent, and stop before you had a chance to shoot.

(*Roy removes his United States Government Badge, and hides it in his pocket.*)

EMMET—That's better, Roy. By the way, what kinda gun d'ja bring?

ROY (*proudly*)—My regular 30-30 rifle. I've had a lot of luck with it in Aurora.

EMMET (*smiling wisely*)—Put it away, put it away! It won't be no good up here!

ROY—Why not?

EMMET—It doesn't scatter. You might get the male in the front seat, for example, and miss the female and cubs in the back seat entirely. Some of us prefers sawed-off shotguns, but I always say you can't beat the trusty old riot gun for fatal shooting.

(*Roy pours himself another highball.*)

ROY—Been having much luck around here lately?

EMMET—No, just the usual run—two or three females and

cubs, a local confectioner, and a couple of unidentified bodies. The summer season hasn't really started yet.

ROY—Yeh, it's been pretty dull down in the city, too. The game is getting so scarce we have to go right into the houses and beat them out in order to shoot them.

EMMET—They've been having some pretty good shooting up Niagara Falls way, though. I suppose you heard Ed Martin got a nice Moose.

ROY (*eagerly*)—No! How did that happen?

EMMET—Well, it seems him and Bill Gillan had been out stalking all day long without seeing a single track, and they was just about ready to start home empty-handed when Bill heard a puffing in the distance. So Ed stationed himself on the run and waited. This Moose come right past Bill first, and he fired five shots and missed. Then Ed opened up, and got him right in the temple. One of the prettiest shots you ever saw. Secretary of the Lodge—weighed almost two hundred pounds.

ROY (*loyally*)—Well, that last one you shot wasn't anything to be ashamed of, Emmet.

EMMET (*modestly*)—Oh, I dunno. Of course I got my picture in the papers and everything, Roy, but there are dozens of other fellows that do just as good shooting as that every night up here. The public just doesn't happen to hear of them, that's all.

ROY (*glancing at his watch*)—Can't we start out yet, Emmet? I can't wait.

EMMET—No, stay here till it gets good and dark. We want to ambush them.

ROY—Gee, I hope I have a little luck while I'm here. It's been awful dull in Aurora since that de King shooting. Hasn't even been enough evidence to suppress.

EMMET—Well, you just stick around here, boy, if you want some *real* shooting. Why, I've seen game so thick on these roads that you could go out and bring down three or four almost any night. It took all the sport out of it. (*Roy rises impatiently and strolls around the room, inspecting the trophies which are hung around the walls.*)

ROY—Where did you get this specimen, Emmet?

EMMET—You mean that head over the bookcase? Got him last Sunday. He was driving a large touring car, and he gimme a mean fight before I finally landed him. Oh, he was vicious.

ROY (*inspecting a life-like group over the doorway*)—This is a nice little display for a den.

EMMET—They was having a little picnic when I stumbled onto them, and I seen the baby drinking out of a bottle.

ROY—Did you keep it for evidence?

EMMET—No, I found out later it was only milk. But at the time I wasn't taking no chances.

ROY—By the way, what's this letter you got framed over your desk?

EMMET (*loftily*)—That's a certificate from our Chief Game Warden up here, congratulating me on my good shooting.

ROY (*reading aloud*)—"One of the healthiest indications I have seen in a long time. Our church is proud of you. Do you suppose you could make the torture more lingering next time if you used dumdum bullets? P. S. I am sending the good news to the Bishop." Gee!

EMMET—I tell you, it isn't every Bishop that will take such an interest in shooting—and him so busy playing the market.

(*He pours himself another highball. Roy glances again at his watch.*)

ROY (*with a boyish grin*)—Gee, honest, Emmet, I just can't wait. I think I'll fire a couple of shots down the road to see if I hit anything.

EMMET (*rising tolerantly*)—Well, I guess it's all right to start out now. We might even scare up a young couple parked at the side of the road. If they're too small, we can throw them back.

(*They seize their guns and start toward the door. Roy pauses suddenly. A tragic expression comes over his face.*)

ROY—Oh, gee, Emmet, I forgot. I can't go out shooting tonight.

EMMET—What's the matter?

ROY—I haven't got a license for this state.

EMMET (*laughing loudly*)—Don't you worry about that. If you get caught, a Federal Judge will fix you up.

And so, with a yoicks and a wind of their hunting horn, they wrap themselves in the American flag and exit as

(*Curtain*)

CHAPTER XII

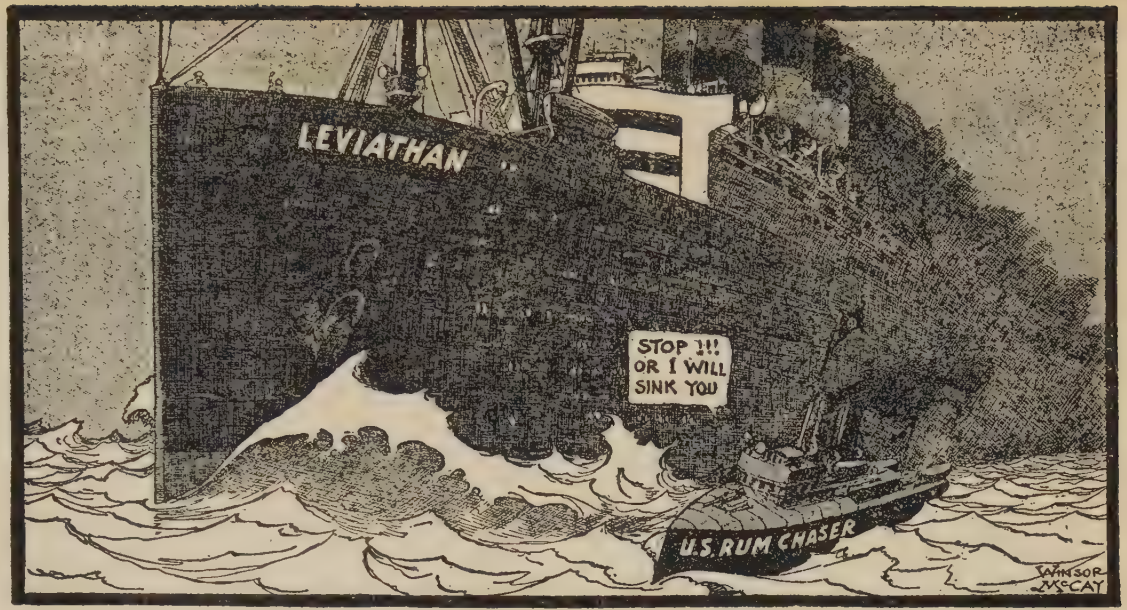
THOUGHTS ON ECONOMICS

ECONOMICS has figured largely in the American liquor traffic in this country since Alexander Hamilton caused an excise tax to be placed on alcohol. The tax legalized liquor and brought it into politics. The higher the tax grew, the more the saloons were forced to overlook the law in order to show a profit. This led to the abuse of intoxicants and finally brought on the agitation for the Eighteenth Amendment, according to most authorities.

Shortly after the Civil War the government raised the tax on alcoholic beverages to $2 per gallon. This made it profitable for the bootlegger and he made his appearance. The government was finally forced to reduce the tax to fifty cents per gallon and the bootlegger, following economic laws, disappeared, according to George S. Kimball, consulting engineer, of Pontiac, Mich. He further points out that following the tax reduction, the government, in the two years following, showed a gain of $60,000,000 in taxes which would otherwise have gone to the bootlegger.

Stanley Jason Fletcher, No. 1736 Fifty-sixth Street, Brooklyn, N. Y., quoted from a letter of Thomas Jefferson, the great statesman, to M. de Neuville, to illustrate an example of economics wrongly applied. In the letter Mr. Jefferson rejoiced that the tax on wine had been reduced, since high taxation on wine had driven the middle class people to drink whiskey.

The Jeffersonian letter follows, as supplied by Mr. Fletcher and the bulk of it might well have been written 111 years later:



YES, QUITE A DIFFERENCE

If you do your bootlegging, constitution and prohibition law-defying, on board a gigantic ship like the Leviathan, that's BIG, and being big, it's exempt. Do you think the big Leviathan will be held up or sent down? You DON'T. And you're right.

Monticello, Dec. 13th, 1818.

M. de Neuville,
Dear Sir:—

I rejoice, as a moralist, at the prospect of a reduction of the duties on wine, by our national legislature. It is an error to view a tax on that beverage as merely a tax on the rich. It is a prohibition of the use of same to the middling class of our citizens and a condemnation of them to the poison whiskey, which is desolating their houses.

No nation is drunken where wine is cheap; and none sober, where the dearness of wine substitutes ardent spirits as the common beverage. It is in truth, the only antidote to the bane of whiskey. Fix but the duty of wine at the rate of other merchandise, and we can drink wine here as cheap as grog; and who will not prefer it? Its extended use will carry health and comfort to a much enlarged circle.

Everyone in easy circumstances, (as the bulk of our citizens are), will prefer it to the poison to which they are now driven by our government. And the treasury itself will find that a penny apiece from a dozen, is more than a groat from a single one."

Mr. Kimball, to refer again to his plan, wrote:

"There is nothing new in bootlegging except the name, of Civil War origin. Whenever opportunity has offered in the past (before prohibition) we have experienced similar evils varying only in degree, and as long as human nature is what it is some people will be found to commit any crime if the stake and attending circumstances seem to justify the risk.

"It has seemed to me for many years that in this, and in some other matters, that the Federal Government, through legislation, puts a premium on rascality. In support of my proposal I call your attention to experience of the U. S. Revenue Department from 1862 to 1868 in particular, though the facts extend far beyond that date in varying degree.

"There was no tax on alcoholic beverages from 1822 to 1862 and the average price in Cincinnati 1860-61 was 14.4 cents per gallon.

"In September, 1862, a tax of 20 cents per gallon took effect. In March 1864 the tax was raised to 60 cents. In July

1864 the tax was advanced to $1.50 per gallon. In January 1865 there was a further advance to $2 per gallon.

"Under this process distilleries multiplied rapidly, and the distillers, knowing in advance through legislation, overstocked to the limits of their capacity, and when each new tax rate took effect closed down their plants promptly. This identical process was repeated in each case. It matters not now that the distiller made enormous profits, but the field was wide open and immense profits assured for the illicit maker and seller, in a word the bootlegger.

"Illegal manufacture and sale increased until conditions became notorious, revenue fell off until it was estimated in 1868 that under the $2 tax the production was 50,000,000 gallons on which the Federal Government collected a tax on only 7,000,000 gallons, with a profit to the illicit trade estimated at about $80,000,000.

"Congress at length became alarmed "because confronted with positive evidence of astounding frauds," and at the urgent request of the Special Commissioner of the Revenue the tax was reduced in July 1868 from $2 to fifty cents per proof gallon.

"The record shows further that the *gain* to the Federal Government in two following years under the fifty cent rate, was at least $60,000,000—which would otherwise have gone to the bootlegger."

Prohibition has grown a gigantic illicit business in the opinion of P. A. McCullough, No. 7216 McPherson Boulevard, Pittsburgh, who tells why the most powerful and active prohibitionists are those who profit most from the present criminal traffic in poisonous intoxicants.

"Prohibition has not killed the demand for alcohol. What it has done is to make the supplying of that demand one of the most profitable businesses in the history of the world. Large profits have attracted large investors. The real purveyors of alcohol are not the ones you read about in the daily papers but the undercover financiers who supply the money and reap the profit."

High taxation brought about the saloon evils, is the thought of Edmund C. Krug, No. 3317 Eads Avenue, St. Louis, Mo., who wrote:

"Not the greed of the brewer or distiller alone caused the evil conduct of the saloon. It was the overtaxation of not only the saloons but the goods handled, compelling the saloon keeper to overlook the restrictions the State and cities had piled up against his trade and livelihood."

F. Carrell, of No. 42 Anderson Street, Trenton, N. J., saw great economic value in permitting the return of wines and beer in this country, declaring:

"Any law to make possible the manufacture of wine in its natural state will soon make bootlegging die a natural death. It will also save taxpayers millions of dollars, induce the formation of a great number of competitive companies that will keep its price within the means of every family and distribute it through the homes; give health and color to American people; develop a number of States and enrich those States best suited for grape growing; give rise to a colossal industry involving billions of dollars in land reclaimed, in millions of acres planted as vineyards.

"It will give work to hundreds of thousands of workmen in the manufacture of wine and in its allied industries (planting, picking and general farming, manufacturing, etc., wood for barrels, iron, freight, etc.) fill the government safes, lower taxes. Also, due to American ingenuity and magnitude of enterprise, it will give rise to a colossal export to wineless countries of such wonderful possibilities as China, India, South America, Australia, etc."

The huge cost of operating the governmental machinery, due to prohibition, causes C. F. Elrich, Manchester, Mo., to believe that:

"The subversion of the original intent of our government is that by so-called legal enactment governmental office has been established as a sure thing proposition in which the incumbent becomes a parasite and in place of becoming a supporting factor of the government he becomes merely a sup-

porter of his political superior. . . . Taxation, to support this horde of parasites, is approaching confiscation."

The well-known law of supply and demand made itself felt long ago in England, according to John S. Stevenson, No. 205 Quincy Street, Brooklyn, N. Y., who informs us:

"Many years ago, when gin was first imported into England from Holland, the maximum quantity in one year was 9,000 gallons. England made strenuous laws forbidding its sale or use and, at tremendous expense, had an army of people to suppress it. Human nature spoke and aided by caricatures by Hogarth, the consumption of gin increased millions of gallons. England then cancelled the laws and things became more normal."

CHAPTER XIII

EXTREMISTS AND HUMORISTS

IT was not unnatural that a few of the 71,000 manuscripts should be colored with fanaticism, but such plans only served to emphasize the temperate tone of the vast majority of the contributions. Thus the material as a whole offered strong contrast to the plans received in the preceding Durant competition to produce "the best and most practicable plan to make the Eighteenth Amendment effective." That contest was alluded to in the Senate on February 18, 1929, when Senator James A. Reed, of Missouri, delivered his farewell address, characterized by the press as the most masterly oration delivered in Congress in the last ten years.

Mr. Reed said:

"One of the saddest effects of the law (Eighteenth Amendment) is that it apparently has transformed the kindly sentiments and humanitarian services of the old-time prohibitionists into the spirit of persecution. Force is substituted for reason, penalties for persuasion, and cruelties for charity. I repeat that where we once sought to rescue the perishing, we now send them to the penitentiary.

"We have abandoned the Bible, the prayer book and the temperance tract for the lash, the prison, the pistol and blood. As was stated in the recent remedy suggested in the Durant Prohibition Prize competition, 187 persons demanded the death penalty. The vast majority of the contestants proposed to pile penalty on penalty.

"But perhaps the most classic illustration of enthusiasm gone mad and of the transformation of charity into a spirit of criminality is furnished by the suggestion of a lady. One contestant urged that the liquor law violator should be sus-

pended by the tongue beneath an airplane and carried over the United States!

"One woman suggested the government distribution through bootleggers of poisoned liquor, stating that only a few hundred thousand persons would die and it would be worth it to get prohibition enforced!

"If these illustrations were no more than the sporadic utterances of some insane person the matter would not be worth mentioning, but the spirit is abroad in the land and people seem to have conceived the idea that whatever could be done under any law that may be passed is just and right and righteous; that the form of the law sanctions and justifies any cruelty, any atrocity."

Other nonpareils of thought submitted by the 23,230 participants in that contest—as reported by the W. C. Durant Prize Award Committee—were: "require every bootlegger to wear red pants and when caught without them to be put in prison; public liquor fountains, turned off at night; allow men no trouser pockets and only one coat pocket, two inches deep; deport all aliens; pension people living a sober life up to forty-five years; exclude wets from churches; compel bootleggers to go to church every Sunday; forbid sales of jugs, glasses, shakers and stills; eliminate desire for alcohol; sterilization; torture, whipping, branding; tattoo violators; train dogs to catch bootleggers; eliminate jury system; forbid drinkers to marry; capital punishment for consumer and posterity to the fourth generation."

Because the Hearst Temperance Contest attracted world-wide attention extremists did not lack some comparative representation in the great group of 71,000 contestants, although their numbers were exceedingly small, for the contest naturally appealed to the temperate and not the fanatic. There were also humorists; they competed to good purpose, for "a little leaven leaveneth the whole lump."

The opinion of a resident of Pensacola, Fla., was:

"My advice would be a great help to this country. Nobody is going to stop people from making whiskey. It would be

a good idea to pass a law to get back the best whiskey. All whiskey be run by the Government, build a big house on the same order as my example and have a wall twenty feet high like a State prison. People must go in dry and come out dry. Open the gate at nine in the morning for everybody that wants to can go in and drink until 11 A. M., then close the gates and saloon and not let anybody out until 2 P. M. People can play pool, eat and drink cold drinks and ice cream.

"I believe from 11 A. M. to 2 P. M. the majority will be sober. All that are not sober will stay in until they are sober. If any get too drunk, put them in prison and let them out when they are sober, without trial.

"Open at 5 P. M. and drink until 7 P. M. gates and saloon closed and everybody stays inside and eats and drinks cold drinks and ice cream until 10:30 P. M. Then let everybody go home, except those that are drunk, and they are put in prison until they are sober; then release out without trial or fine. Then I don't believe there will be so many crimes in this country."

Although many contestants felt that the 1,000-word limit was over-restrictive, there were more than a few who submitted tabloid plans. Thus a Pacific Coast contestant entered a one-word proposal, "Water." A two-word plan from Pennsylvania was "Try God." A three-word solution was: "Follow precedent, nullify."

Summarizing many insistent demands for the enforcement of all constitutional amendments and all laws on an equal basis, was the four-word plan: "Single standard of law." Another was "Return to common sense." And so on to the encyclopedic type of plan which contained 25,000 or more words. Incidentally one of the prize-winning plans contained fewer than 800 words.

Ingenious plans for the control and sale of alcoholic beverages were numerous, including: drinking only after 6 P. M.; drinking only on Saturdays; central electrical control of breweries, distilleries, taverns and dispensaries; "beerateries" after the cafeteria idea; government regulation of

the manufacture, sale, distribution and supply of all materials for the use of, or in the manufacture of any form of alcoholic beverages, including sheet copper and tubing used in the making of stills, and of sugar, fruits, grains and the like; organization of non-profit corporations under government control to manufacture beverages for members only, labels on all bottles to carry printed warnings as to alcohol's effect on health, these to be supplemented by anatomical drawings similar to those which appeared in old-time temperance tracts.

There were proposed also separate "beer houses" for men and women; progressive reduction of the alcoholic content of liquor at the rate of one per cent per year over a period of twenty years; free government liquor, to be manufactured in federal prisons by prisoners convicted of temperance law violations; designating one State where liquor may be sold and forcing all drinkers to live there.

The recently published treatise, "The Lazy Colon," was echoed by a plan which attributed all intemperance entirely to colonic maladjustments. And a resident of Washington, D. C., who termed himself an "uplift engineer" seriously stated his belief that circumcision would prove a panacea.

A woman resident of a small Washington town was confident of the efficacy of magnetism, since "it embraces and exalts all human powers."

Evidence of the snooper-spy tendency was refreshingly rare although a contestant, who asserted that he was a "clairvoyant by birth," urged:

"Let every town and city appoint ten spies to every 10,000 population to respect the law enforcement of the public. In the law all spies and officers of the law should be paid a percentage from the amount paid by the guilty under the enactment of the law, prescribed in the act."

A northern New York State resident wrote:

"The plan is to have a game of 'Tell-tale' and offer a reward to every buyer who snitches on his bootlegger. The reward, instead of being money, would be a certain amount of pure whiskey, or other liquor."

A voluminous ten-page plan by one who identified himself as "a student of the Sociological Science of Human Universal Unity" was prefaced with:

"Oh! Yankee Boy! What hast thou done with thine liberty? Why hast thou sold it so cheaply, when it costed thine forefathers so dearly?"

That "Professor Einstein, a moderate drinker, is brainier than Calvin Coolidge, a dry," was the candid, though inconclusive, comment contained in one plan.

The distribution of revenue accruing from legalized liquor sales claimed the attention of numerous contestants. Every conceivable cause was suggested as beneficiary, from old-age pensions and better housing to the Anti-Saloon League, the W. C. T. U. and the churches. And national defense, farm relief, schools, commercial aviation, water-ways, the Nicaraguan canal were not overlooked.

"Permit France to pay its war debts with wines," said one. "And Germany with good beer," said another.

Others argued that the W. C. T. U., the Anti-Saloon League and similar organizations should have complete charge of all liquor distribution and dispensing. A mid-west Elk thought the entire sales and distribution should be in the hands of the B. P. O. E. A dentist advocated distribution solely by dentists and physicians.

Limitation of areas where liquor might be legalized was a popular idea. Suggestions were: trade France and England our equity in war debt for islands near the coast; these illegal sources of supply to be used as drinking resorts. Another contestant elaborated on this suggestion, proposing to build islands where none existed. Many advocated sales through savings banks, by the chain-stores, by automatic vending machines, by the clergy.

Public exposition of drunkards was advocated by a contestant who observed in passing: "Thirty years ago men travelled miles to see a 'leg show.' Now they see more and look less for a nickel in the subway."

Various types of trick containers and bottles were urged

as a means of lessening drinking and making transportation of liquor impossible. Among them were: one-ounce bottles with a star-shaped base to prevent carrying the bottle on the hip; small bottles covered with sharp points; cone-shaped bottles which would tip over if set on bar or table; and bottles, in the shape of a long tube, holding one ounce only. The contestant suggesting this latter type thought well enough of his plan to apply for a patent on it.

There were notably few contestants who advocated more stringent enforcement of the present laws, or of any proposed laws governing the logical system to be substituted for prohibition. For every contestant who advocated more severe punishments and more drastic enforcement measures there were thousands who stated emphatically that "drastic measures have and would continue to defeat their own purposes."

Of the Jones Law one contestant wrote: "it has already been interred along with the million of unenforceable blue laws still on our statute books." That a prison term for violators of the dry law is no longer a disgrace was the opinion of many.

However, there were contestants who proposed placing the violators in bottle-shaped cages in public squares; daily publication of the names, addresses and even photographs of those convicted of drunkenness; public blacklists posted in prominent places; "training camps" instead of jails; the old-time whipping post for heads of families convicted; fines of one per cent of the yearly income; twenty-five convictions to constitute legal proof of insanity; isolated insular penal colonies; the withdrawal of purchasing permits on complaint of two relatives: indelible crimson dye to be sprayed on the nose; dressing of drunkards in clown's costumes and forcing them to carry banners indicating their guilt; forcing every intoxicated person to take two ounces of castor oil; banishment of drunkards to homesteads and grubstaking them; imposition of $100,000 fines and life imprisonment of all violators of temperance laws.

One lone contestant asked the death penalty.

A lot of ground was covered by the author of the following:

"My plan would be to build twelve big Federal penitentiaries, a mile-square each, then start filling the first two with the members of Tammany Hall, the New York City officials, and every member of the Police Department convicted of taking graft from speakeasies, and the editor of every newspaper who gives comfort to the enemy or publishes editorials intending to build up a propaganda of disrespect and nonobedience to the law.

"Every judge and court official convicted would be sent to prison along with the rest of them. Then have the judges and editors of papers, while they are in prison, compile a book, if they choose, and publish it stating why prohibition should not be in force.

"Then I would step down to Washington and get all members of the Department of Justice who did not strictly enforce the law and put them in with the rest of the violators."

Then there were those who would limit the purchase of all liquors to a fixed percentage of the income of the purchaser. Two and a half per cent of the consumer's weekly earnings was set as a limit in one plan. Sales in proportion to one's savings account as certified to by his bank book was another. A limitation of sales to registered voters was advocated repeatedly. Temperance lectures in beer gardens was an educational measure which found many adherents.

Charles La Croix, Woodsfield, Ohio, made the following contribution:

"I shee by todaishe paper where you're looking for a shubstitoot for probishun. I know all about it, so you can shend the $25,000 to me (hic) as quick as poshuble for I need the money. I ain't going to shay much for I guess everybudy knows everything about having thish thing called Prohibishun—and we're gettin' it just the shame. So whash the use of having it? I don't want probishun, cause I don't like to have to sneak around the bush about nothing, and want to be

temperate and shensible. I ushed to never get thish way when I had a little beer and shum wine in my cellar. Can't they shee everybody would be better off if they wouldn't make ush make foolsh and sneakshs out of ush? Well, den, I am shubmiting my idea in your contest—I'm giving you my qualified opinion ash to a practical solution—an honest-to-God subshitution: COMMON HOSS SENSE! Thanking you for your conshideration (and your time), I leave thish in your hands.
P. S. Sh'all gone now—but I kin git shum more, don't worry!"

The charade form appealed to J. P. Tighe, No. 182, Lefferts Place, Brooklyn, N. Y.:

"I am a war baby, conceived and born during the World War, weaned on a bottle since birth. I was adopted, after being abandoned by my parents, by some high and reverend gentlemen of the Anti-Saloon League and some women of the W. C. T. U. They have been my guardians ever since.

"While I am only about ten years old I am more powerful than the combined armies of the world. I have destroyed more men and women than all the wars of the nations. I am more deadly than a rattlesnake, and I have wrecked more homes than the mightiest of siege guns. I steal through corruption, hypocrisy and chicanery, more than $1,000,000,000 from the people of the United States every year. I spare no one.

"I have my victims among the rich and the poor, the strong and the weak. Widows and orphans know me well. I loom up to such proportions that I cast my shadow upon every home in the land. I lurk in all places and do my work silently and in the dark. You are warned against me but you heed me not. I am everywhere, in the house, in the school, in the street, in the church, in the factory, in the office, even on the sea. I bring sickness, death, degradation. I spare no one, young or old. I destroy, crush and maim, and I give nothing, but take all. I am prohibition.

"I am your worst enemy—BEWARE."

Herman J. Kohl, No. 121 East Twenty-fourth Street, New

York, pictured the period of 1960. The great airplane, "Hiram Rollerson," is started on its 60-hour non-stop flight around the world. This has been made possible by a temperance bill introduced in and passed by Congress to permit the sale of liquor. The funds derived from the sale are used for educational purposes and as a result the United States schools have developed geniuses. And the nation is defended by the world's largest army:

"So after twenty-five years a puny body of a few prohibition agents has grown into an army of 800,000 active men with a reserve of six million fully-trained pilots. Two million machines are at their disposal and to change to combat units requires exactly two hours' time.

"The United States has now not only the largest army, but the only army which instead of being an expense to the country last year actually contributed two and a half billion dollars net profit to the Treasury."

"The bootlegger," wrote one contestant, "is the legitimate child of prohibition. Enforcement officers have the mentality of twelve-year old boys."

"The country," according to one contestant, "is run by ten per cent of the people, who consider recreation sinful." The suggestion that the wets have yet to force the drys to drink liquor was present in hundreds of plans. A new variety of judicial procedure was that "all jurors who acquit contrary to the evidence should be indicted."

A farmer's views are expressed by William Govern, Wallkill, N. Y., who explains:

"Money brought it (prohibition); money is keeping it here; and only money can take it away. Let the trades union men get together and help get wines and beer. They can, for they are the men that make the wheels turn, and if they stop all is lost. If they would demand it or lay off for a week I guess they would get it."

"Liberty-loving Americans will never be ruled by the dry tyrants," was the opinion voiced in many plans. The hopelessness of legislative action as a final solution of the liquor

problem was emphasized by a contestant who said "Four hundred acts of parliament have not solved the problem in three centuries of British experience."

This view is echoed by those who welcome the dictatorship form of government. The importation of Mussolini and Facist rule, or the naming of Colonel Charles A. Lindbergh as dictator of the United States, coincident with the dismissal of Congress, were advocated!

Among several thousand contestants that resorted to verse was Miles Clark, a steeplejack of Janesville, Wis., who appended to his plan the following engaging lines:

"This letter is nothing fancy,
Nor the writing very swell,
But any prize, dear editor,
Would surely help like hell."

Noteworthy plans came from former Circuit Judge Henry Junius Patee and Mrs. Patee, née Annie Harles, of St. Louis, Mo., despite the fact that both contestants some years ago passed the biblically allotted three-score-and-ten mark. Mrs. Patee is an able writer of verse, while Judge Patee's poetry, usually in classical vein, has been frequently quoted.

Because of his warm interest in the Hearst temperance programme, Judge Patee, during the course of the contest, submitted to the Committee numerous lyrical compositions relative to various aspects of the problem. The following selection from "Wine" is illustrative of his style:

"Thou attar from the roseate east,
Perfuming the balmy air,
The strain of music from the feast
That breaks the bonds of care!
Not Shylock hoard, not Croesus wealth
Gives thee the peace divine,
Nor crystal waters wake to health
That sleeps in ruddy wine!

* * * *

"Come, slave of hunger! Thou shalt pass
From chains of poverty!
Take refuge in the sparkling glass
That blesses penury!
The fertile vine shall give thee dreams
Of love and home, benign;
And waft thee o'er Utopian streams
Whose waves are golden wine!"

S. M. Dugger, Banners Elk, N. C., was "sure that if the art of making whiskey had been discovered before the feast in Cana, Christ would have made at least twenty gallons for the occasion."

The power of prayer was the theme of a thousand plans. Typical were such suggestions as: Memorialize the President through Congress to call a day of prayer; nation-wide fasting and prayer for one week; ten minutes' prayer daily by dry advocates.

The less prayerful-minded contestants were not averse to calling prohibition by other names. It was described as a cancerous growth on the body of the nation; a national inferiority complex; a ten years' nightmare; the still-born child of a witless mother; a gigantic octopus encircling the nation with fifteen million liquor buyers and a quarter of a million speakeasies; nitwitted legislation popularizing liquor; an economic asset (?) resulting in the yearly expenditure of five billions of dollars for booze; an indefensible violation of the commandment "Thou shalt not kill"; a rope of sand disintegrated before it was fully formed; a veritable Gibraltar blocking our return to temperance; a beautiful tribute to Puritan Americanism as outdated as the Puritans themselves.

Just as every conceivable scientific or quasi-scientific remedy for dipsomania was advocated so everything from a post-card to a pine plank was used as a medium to convey the message. In contrast to many elaborately executed plans there were some scribbled in pencil on torn sheets of wrapping paper, on old hand-bills, in notebooks, and even on the obverse of a calendar.

For the most part such plans came from comparatively isolated localities. For example, an Indian resident of Arizona mentioned that he lived twenty miles from the nearest town and thirty miles from a railroad. These crudely prepared essays expressed eloquently their authors' determination to be heard upon a subject very near to their hearts regardless of any lack of writing facilities. In them, perhaps to a greater degree than in more conventional plans it could be seen that the hope of winning a prize of many thousands of dollars was subordinated to a genuine desire to help in the solution of our country's most pressing problem, to lay upon the altar of patriotism a gift however humble.

To illustrate the innumerable varieties of format a few are here briefly described. Stanley Pard of Middletown, Conn., submitted perhaps the most lengthy manuscript, a single sheet of paper ten feet long. One contestant personally delivered a contribution which was wrapped in an American flag.

From Albert Edward Gauthier, Manchester, N. H., came a plan of generous proportions. On the cover was an excellently executed drawing of a basket from which spouted a geyser of golden stars, half concealing the initials U. S. A., which were printed on the side of the basket. Also upon the cover was superimposed a photograph of the national capitol. On the large inside page appeared the plan itself. This was hand lettered in red, blue and gold. Oval miniatures of all the presidents of the United States were used as marginal decorations.

J. H. McMurtrie, New York Central Bldg., New York, an advertising man, argued that prohibition had not been "sold" to the people, hence its failure. Appropriately he presented his plan in the form of printed copy to appear as a page advertisement in the newspapers.

W. H. McNeal, Magnolia Street, Syracuse, New York, saw things from an original viewpoint. His plan was neatly hand lettered with white ink upon glossy black paper.

Charles B. Stark, No. 9804 Sixty-Second Avenue, Seattle,

Wash., was among those who made identification doubly sure by marking his plan with finger prints, and from Lieut. William I. Lehr, of the U. S. S. Seattle, as from a number of other contestants, came a blue-printed contribution.

It was H. E. Etheridge, of Norfolk, Va., who compressed his plan within the limits of a postcard.

"A Plan of Health Dedicated to the Babes, the Youth, and the Manhood of the United States of America" was the title of the thesis of A. P. Cowan, Sacramento, Cal. His plan arrived wrapped in red, white and blue paper while rosettes and streamers of tri-colored ribbon were lavishly employed in decorating the proposal itself.

There was even less possibility of overlooking or losing in the files the plan of Irving Johnson, No. 51 Defrees Street, Washington, D. C., for it was written in ink upon a well sandpapered pine board 12x24 inches.

Hundreds of poems, cartoons and even songs were received. Graphs, diagrams and pro forma liquor cards were a commonplace. One of the most elaborate plans was the work of Mrs. Ida Jane Haskins of Grass Valley, Cal. Mrs. Haskins' contribution was in two sections, each compiled in a large book wrapped in glazed paper. These books, baby blue, bound with gold cord, were decorated with patriotic pictures. The first, and introductory volume contained reproductions in full color of the national emblem as well as photographs of national heroes of war and peace. The second volume, which contained the plan proper, was dedicated to George Washington who made verbal and pictorial appearance many times before the back cover was reached.

The plan of Judge Edward Farrell, No. 338 Commercial Avenue, San Francisco, was printed on a sheet of paper several feet square. Framing the text were eight cartoons pertaining to the prohibition problem.

The work of F. L. Union, of Sayville, Long Island, was skilfully engrossed by Mrs. Union. Incidentally this was only one of hundreds of instances of collaboration. Thus Count George A. duBarry and Countess Margaret Jean duBarry of

Seattle, Wash., and Watkin W. Powell and Mrs. Powell, Sharon, Pa., were among the many husbands and wives who joined forces and submitted a single plan.

Again Francis Nekreda, of Roselle Park, N. J., collaborated with Francis, junior. Two Yale undergraduates, one a law student, the other a medical student, appreciating the twin aspects of prohibition, co-authored a plan.

The most comprehensive collaboration was that of the Junior Civics class of the Nogales High School, Nogales, Arizona. This essay was the work of five students and their instructor.

But to return to the format of the plans, perhaps the most elaborately executed contribution was the work of Fitzherbert Leather, Central Building, Seattle, Wash. It was in the form of a large folio. The suède leather cover was bound with silk cord. The thesis was printed in hand set type on wide-margined pages of cream colored vellum.

It is hardly necessary to add that in judging the essays format was in no way a factor. So that regardless of whether a plan was an aesthetic delight, whether it was artistically printed and luxuriously bound or whether it was presented in the form of a painfully pencilled scrawl, it was carefully read and graded without prejudice.

B. G. Paulin, Atlanta, Ga., proffered an interview with Satan. He reported the Prince of Darkness as confessing:

"Prohibition has demoralized my establishment, and my organization is running wild, my own gangs having got even beyond my control. You don't suppose I want to remain in this mess all my life. I am a rich man, and becoming weary too. Prohibition has been a blessing to us, but too much is too much, and besides we WANT PEACE on this side of the world as you do on your side."

CHAPTER XIV

FROM FOREIGN COUNTRIES

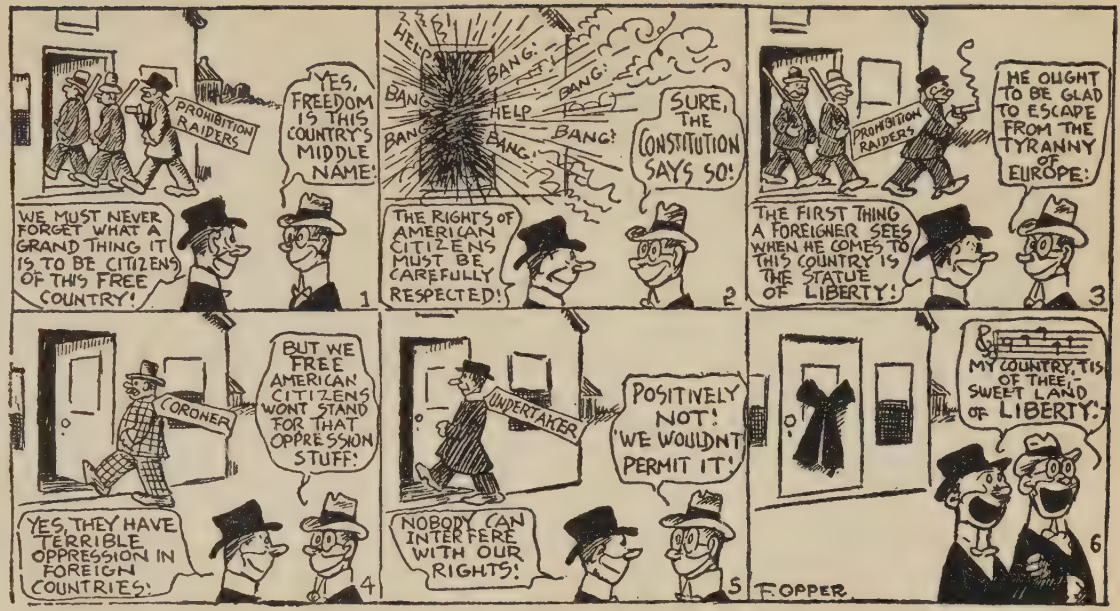
THIS world, after all, is as neighborly as Winesburg, Ohio. The difficulties of our national household, with the current "experiment," drew the advice of the neighbors from five continents and 34 foreign countries. The majority of these contestants showed a thorough knowledge of the legislation creating, and the sad results of, the Eighteenth Amendment and Volstead Act. Others, it was plain, were limited in their knowledge to that gained from fragmentary news reports and the barbs of the humorists of the various countries.

Few ridiculed; many consoled. The "near anarchy which reigns" in our larger cities is non-existent in European cities, these contestants averred. They had had no contact with the flood of prohibition propaganda so that their plans represented an interesting and detached view of present day conditions.

Scores of plans submitted from other countries were accompanied by clippings in many languages of the first announcement of the Hearst contest; often the source of information was so incomplete that the plans did not fully comply with the conditions of the contest. These plans came from practically every civilized part of the world and were in virtually every modern language.

The general tone of the contributions is evident in the opening paragraph of the following quotation from a plan submitted by Herr Haakh, of Ulm, Germany:

"I am German—I think my unwonted way of expressing myself makes it manifest, and it might appear arrogant if


PROHIBITION RAIDERS
YES, FREEDOM IS THIS COUNTRY'S MIDDLE NAME!
WE MUST NEVER FORGET WHAT A GRAND THING IT IS TO BE CITIZENS OF THIS FREE COUNTRY!
1
HELP!
BANG!
HELP
BANG!
THE RIGHTS OF AMERICAN CITIZENS MUST BE CAREFULLY RESPECTED!
SURE, THE CONSTITUTION SAYS SO!
2
PROHIBITION RAIDERS
THE FIRST THING A FOREIGNER SEES WHEN HE COMES TO THIS COUNTRY IS THE STATUE OF LIBERTY!
HE OUGHT TO BE GLAD TO ESCAPE FROM THE TYRANNY OF EUROPE!
3
CORONER
BUT WE FREE AMERICAN CITIZENS WONT STAND FOR THAT OPPRESSION STUFF!
YES, THEY HAVE TERRIBLE OPPRESSION IN FOREIGN COUNTRIES!
4
UNDERTAKER
POSITIVELY NOT! WE WOULDNT PERMIT IT!
NOBODY CAN INTERFERE WITH OUR RIGHTS!
5
MY COUNTRY, 'TIS OF THEE, SWEET LAND OF LIBERTY!
6
FOPPER

A PRETTY SONG

I give my opinion with regard of the affairs of the U. S. A., but I am a man of 70 years and I have served as a public functionary on the questions of law and political economy in a career of nearly half a century, and have taken part in giving or refusing licenses for keeping inns as a member of several boards. Of course I had to first heed and regard the German laws, but I was perky enough to try to penetrate also into the respective orderings of foreign states, as far as my knowledge of languages allowed.

"I took notice of the regulations of tavern legislation of Switzerland, Denmark, Sweden, Norway, Finland, and especially the United States, where they fight alcohol the most energetically and where, on the other hand, the most vehement conflicts against the law arose. As is well known, Norway and Finland have had already to beat a retreat; in all Canada prohibition has been removed step by step, and the holding of the Hearst Temperance contest seems to prove that in the U. S. A. too, a reform is inevitable.

"I, for my part, am a convinced and true adherent of sobriety. For thirty-five years I have been an active member of the German Association Against Alcoholism. This association has not the principle of total abstinence from alcohol (contrary to the Good Templars). It interdicts only the abuse of alcohol. It tries to improve the manners and customs of drinking, that is, to discourage guzzling. I am sure a single glass of wine or beer is quite harmless.

"It is impossible to correct old persons, accustomed a long time to brandy. But this is certainly possible with the well bred youth. Here is a meritorious mission for teachers. The first business, therefore, is to work in the training colleges, in academies and in every educational establishment for the purpose of training teachers.

"According to many experiences in Germany, an excellent means of influencing young people, of both sexes, are excursions managed by guides, who are convinced of the value of the moral importance of temperance and who practise temperance founded on principle.

"If the problem to find such teachers is solved, and if a small part of the sums spent in vain today for the maintaining of prohibition will be employed in these intentions, it would be better, I am confident.

"The abolition of the Eighteenth Amendment to the Constitution of the United States, is, for the present, not possible because of the resistance of the States, which were already dry before the issue of the Shepherd-Webb Constitutional Amendment, whereas the reform of the Volstead Act interdicting more than one half of one percent alcohol, seems to be worth striving for, and that will be, for the present, enough."

With his knowledge of conditions in wine drinking countries and his understanding of conditions in the United States under prohibition, Gaston Liebert, former French Consul-General at New York and Hong Kong, China, an Officer of the Legion of Honor, says:

"It has long been recognized in countries of Western Central and Southern Europe, where wine is plentiful and cheap and where beer and ciders are consumed liberally, that temperance, thus understood, is the best antidote against alcoholism.

"Start by opening as wide as possible the maritime and land frontiers (except those of such States which have reasons to remain 'bone dry') of the United States, through the lowering as much as possible the custom duties to foreign wines of all kinds, which thus could be sold at a low price on this market and would be within reach of the majority of people of the States favoring temperance."

The contributor of the subjoined analysis was Frederick Walder, Richtersvill, Switzerland, a 90-year-old wine drinker:

"Prohibition in America is illogical and unnatural; illogical, because wine and beer are not alcohol. It is absolutely unreasonable to prohibit the use of the best beverages nature itself offers us. That noblest of all nature's gifts, the vine, which furnishes us the wine, is condemned and despised in America!

"Wine induces cheerfulness in man when nothing else will. If one or two glasses of wine are taken with the midday and evening meals it will conduce to a cheerful spirit the year round. It strengthens both body and soul. It is a proven fact that the workman who drinks wine every day with his meals is healthy, cheerful, energetic and a quick thinker.

"The medicinal proprieties of wine are well known. In case of stomach trouble, a glass of wine, sipped slowly about two hours after eating, will soon cure it. The carbonic acid contained in wine and beer aids digestion, gives blood and vitality and finally assists the bowels to function properly. Sirach's words, 'Who would want to live if there were no wine,' rise unbidden to our lips.

"And yet people of America are asked to give up this precious beverage. An individual, who accomplishes nothing, but sleeps, so to say, with his eyes wide open, or only performs light work of sedentary nature, might finally be able to accustom himself to this, but a people who work and really accomplish as much as do the Americans, cannot possibly find in tea and soft drinks the necessary stimulus. They turn, therefore, to something stronger that has a 'kick' and can be easily concealed; whiskey and genuine alcohol. The Administration may draw the line as tightly as it wishes, but all to no purpose. Even women will hanker after the 'forbidden fruit.'

"Once people again have wine, cider, beer, they will no longer want liquor. I am a ninety-year-old wine drinker and as spry at my work as a young man."

One of the most interesting plans from the British Isles was submitted by Arthur Powell, No. 2 Greyswood Street, Mitcham Lane, Streatham, S. W. 16, London. The author was born a half a century ago in Warwickshire. His maternal grandmother was a Quiney, of the same family who married Shakespeare's daughter. After a boyhood spent in Yorkshire and London, Mr. Powell travelled extensively and spent considerable time in the United States, where he engaged in commercial pursuits.

Of late years he has done editorial work for the *Scientific American,* and reviews, articles and poems, which appeared in the leading magazines and in book form. He wrote that he had made a thorough study in America and foreign countries, of the drink problem and efforts toward control.

Mr. Powell's plan called for the organization of a powerful joint association of interests to give battle to the prohibitionists and the Volstead Act. He believes each State should determine what constitutes intoxicating liquor. He wrote:

"I state unequivocally, and from the depth of conviction, that any plan that does not provide for places where the vast army of unattached men can meet of an evening to drink, smoke and converse, is doomed to failure. If these places are amputated from politics, they may be safeguarded against lawlessness; a blow to the bootlegger and the drunkenness of minors. They will remove the feeling of resentment that has led to so much crime, and will take drinking out of the home.

"There will be less—not more—money spent for drink. The nation will be receiving an income from the licenses, instead of throwing away millions in a futile attempt to enforce unenforceable laws. The police will have one source of almost irresistible temptation removed. The court slates will be practically clean of the mess of cases now encumbering them, and the judges will be able to turn to dealing with the things that really matter."

Reginald E. Hose, author, authority on liquor control problems and Secretary of the Liquor Control Board of British Columbia, Victoria, B. C., outlined a plan for the common sense handling of the liquor situation. In his synopsis he said:

"The plan suggests legislative relief from existing restrictions through the instrumentality of a league, unequivocally pledged to a national referendum; anticipates as the corollary thereto, a reorganization period, culminating in restoration of State sovereignty; proposes a new authority for directing the liquor traffic during such time as Congress may

determine; discards or replaces—as a twentieth century expansion into a world of new horizons—certain cardinal tenets hitherto associated with liquor administration: abandons local option, as obsolete as the mediaeval moat and drawbridge; excludes vested interests and private gain; substitutes, for illicit, surreptitious drinking, lawful consumption (public or private) under government regulatory control; inaugurates the Nation-State in a judiciary capacity unencumbered by compensatory or other complications; and though monopolistic in character but limited and restrained by local authority, is constructive and flexible, rather than restrictive and rigid.

"A commission of public management acquires premises suitable for the manufacture or sale of intoxicating liquors: establishes, equips and maintains refreshment houses for the retail sale of wine, and/or beer under prescribed conditions, and (state law permitting) stores for the sale of wine, beer and/or spirits, for off-consumption but not in a public place as by law defined: promulgates regulations (approved by the government) determining modus operandi of entire businesses, and as contact point with the public becomes the barometer of law observance."

M. H. Solomons, president of the Homo-Biosophical Society, of London, Ont., saw danger in the activities of professional reformers and said that if they could possibly do so, they would stop all trains on Sunday; eliminate entirely the manufacture of alcohol, even for commercial purposes; regulate women's dress; make church attendance compulsory; replace all books in the public libraries with essays on Christianity and sermons; would divert all money spent on pleasure into the hands of the churches, and would prohibit the publication of all magazines and songs, other than sermons and hymns.

John J. E. Samuel, a provincial representative, Acaciaville, N. S., pointed out, as did many others, that in those countries where liquor was available, there was no incentive for the people to drink heavily. He said:

"In these countries where wine is flowing, they do not have so many crimes arising from alcohol as there are in America, apparently because they have it so freely and just get sick of it; however, the governments are reaping the profitable taxes."

Representative of the many plans from South America was one from Caracas, Venezuela, submitted by Tulio Menda, Director of Mines, who said:

"The working classes, about one hundred million men today secretly drinking strong liquor, prefer wines and beer. The law prohibiting the consumption of liquors should be modified in a liberal way so as to make it really effective, and in such a way that it becomes no obstacle to the nation's full and continued prosperity and development."

Prominent among the plans from Orientals was that of Dr. Sunker Abaji Bisey, known as the "Edison of India," for the invention of typecasting machines, and in chemistry for water-soluble, non-irritating and non-poisonous iodine, known as atomidine and beslin. Dr. Bisey, has been prominent in science, letters and art. He is a native of Bombay, India, has spent much time in England, and is at present a resident of Mount Vernon, N. Y. His plan said in part:

"No state or religious law can alter human nature or habits. No such outward force can bring true reformation, which must come from within through realization and understanding brought about by knowledge and education."

An interesting sidelight came from R. E. Gilligan, Sydney, New South Wales:

"Out around and within the gaze of the admiring world, stands that indubitable monument to American organization and industry 'her enormous financial resources'; but lurking in the shadows, that sinister figure, the bootlegger, is actively employed sapping the health and efficiency of the citizens. The people of this nation are of such complex character, the cities so large and the field of activity so vast, that one wonders at the measure of success so far achieved.

"One must travel abroad and inquire into the methods of

other countries. All progressive nations use practically the same forms of liquor, that is, wines, beer and spirits. The Germans are physically and intellectually front rankers in the world's galaxy of nations. If thousands of people of that magnificent race can go into beer gardens and partake of refreshments with a maximum of order and decorum, as they did in your own country before prohibition, why can not the equally intellectual and progressive American be entrusted to do the same?"

The fanatical prohibitionists and the fanatical anti-prohibitionists must be brought to see the situation in a sane manner, if temperance is to be restored to the nation. This was the opinion of Edward F. Casey, Brisbane, Australia. He believed that if the truths of the case were pointed out in a dispassionate manner the fanatics would finally admit that a compromise was the only possible solution. He felt that steady, patient adherence to the truth would sway enough voters to reach the goal.

Arthur Bransby Powall, Wellington, New Zealand, saw in education the final relief from rigid prohibition. He said in part:

"Ordinary state control is a 'palliative'—a really good wholesome remedy in many ways, but the only permanent cure for the evils of alcohol is to educate the masses to the far greater advantage connected with temperance, allowing for the years to come to complete the process once started."

Establish a national magazine devoted entirely to the value of food and teach the people how to eat properly, was the idea of Frank Adams, a Blenheim (New Zealand) farmer. He traced all ills of the human race to incorrect eating and believed that when the people learned food values, the desire for excessive alcoholic stimulants would pass.

It is worthy of comment that Finland, a companion of the United States in the morass of prohibition, should contribute a large proportion of the plans received from foreign countries.

Dr. K. F. Granfeldt, mechanical engineer of Kopmans-

gatan, Finland, summed up the prohibition situation in a few words. He said:

"As a total abstainer, and knowing the state of alcohol in America, Scandinavia, Finland, Germany, Russia, Austria, Switzerland, France and Italy, I would say it is impossible to enforce prohibition. Education is the only way to temperance."

Tor Bergroth, law student of Abo, Finland, clearly stated the facts:

"The prohibition law means the practising of a wrong guardianship over the nation. The supreme power decides what one is allowed and what one is forbidden to eat and drink. That is not right. Such a proceeding of the state is a vote of distrust against the individual, which loosens the band between the people and the state. Prohibition never can be enforced and the experiment will cost many lives and cost much money. Respect of the law is depreciated and morals grow dissolute."

Another Finnish advocate of education is A. K. Antell of Wasa, who said in part:

"From what I know about temperance generally and my acquaintance with prohibition as conducted in Finland in particular, I must say, prohibition as we now have it is of no use. Temperance in its highest sense comes rather by education than by legislation."

Subtlety was the keynote of a plan by A. Sarpio of Helsingfors, Finland. He suggested that the prohibition laws be eliminated and that the government manufacture various liquors, wines and beers. In order to cause the people to drink the lighter beverages he advocated an advertising campaign extolling the virtues of light liquors and completely ignoring the existence of the heavier drinks. He pointed out that the tastes of people throughout the world have been changed by proper advertising and saw no reason why it could not be employed in the matter of liquor. He would conduct the campaign in such a manner that the people would not realize that they were being weaned away from "hard" liquors.

Fabian Melin, an expatriate American, now in Sweden, offered a unique suggestion. He would permit the use of whiskey and other strong drink only in cases of severe illness or during funerals. He would name whiskey "Embalming Fluid" or "Funeral Tears" on the premise that this would make it distasteful to the drinker.

First and second class citizens was the idea of Viggo Cavling, Copenhagen, Denmark, journalist. He would make all citizens who have not violated any laws, first class citizens. Those who have been convicted of law breaking would be second class and would have no vote. If the latter go for five years without breaking a law, they again become first class citizens. "At the end of ten years," Mr. Cavling believed, "there would be nothing but 'first-class' citizens in the country."

A warning was issued to America by Carl Angermeyer, Rüdesheim-on-the-Rhine, Germany, who said:

"If the drinking question is more pressing in America than in Europe, it is because the European countries, older in culture, have learned in the course of thousands of years how to act in this case, and they have found out that it is better for the people to indulge in the consumption and enjoyment of mild wine than to induce the people to the stealthy consumption of sharp spirits and liquors. And the actual consumption of such spirits and liquors in spite of the law is the natural consequence of the Volstead Act.

"The result of the customary speed and haste in the States, 'the records of American life,' is to be found in all lunatic asylums."

"Prohibition has brought smuggling, thievery, and murder in its wake in America and has caused people who, before prohibition, would never have thought of law breaking, to join the ranks of criminals," in the opinion of E. Gerske, Hamburg, Germany.

Anton Bleser, Schwarz Rheindorf, Germany, would permit the American people to have beer and wine, and would change the word "saloon" to something with less stigma attached.

He could find no evil in a family gathering sitting in a beer garden and listening to good music while drinking a harmless glass of beer. He would not permit treating, and hard liquor would be available only on a physician's prescription.

A simple and original means of bringing good liquors back to this country was offered by Otto Ackerman, head herdsman, Freiberg, Germany, who suggested casually, "Employ in your government only those people who like to drink a good drop."

Julien Boon, merchant of Boom, Belgium, would permit wines and beer but would limit the citizens to two bottles of hard liquor per year. There is a life-saving clause, however, which would permit every citizen to buy two extra bottles of distilled liquor during December, in order to celebrate the Christmas season appropriately.

Passing the buck to our ancestors is the plan of Samuel Perelstein, Vilma, Poland, who would permit only those people to drink who could swear that their forefathers drank. Mr. Perelstein would give the wife power to veto her husband's drinking and non-observance of the veto would be grounds for divorce.

Alcohol has great medicinal powers, according to Robert Brodt, Vienna, Austria, who said:

"The present prohibition laws in the U. S. A., however, are only good for forcing people to offend them no matter whether they want to do so or not, because they simply must break the laws because of the needs of the human body which in eighty cases out of a hundred cannot do without alcohol. To keep the brain active and alert, refresh exhausted physique, quiet nervousness, remedy chills and cold, etc., there is no better and cheaper remedy than alcohol, so long as it is consumed in moderate quantities."

Education of the child will bring about temperance and a continued campaign toward pointing out the evils of excessive alcohol indulgence will bring the American nation to the ideal of sobriety, according to Dr. Matthaus Schwartzl, Vienna, Austria. He would placard the country with pictures

and flood the schools with pamphlets, preaching temperance constantly, until it became firmly instilled in the public mind.

Plans submitted from other countries for the most part were similar to those quoted herewith. A general appreciation of the value of light wines and beers was evident. Distilled liquors, the average contestant believed, had a particular place and usage, chiefly medicinal. Wine and beers, easily and cheaply accessible to all, are the best antidotes for the intemperate use or abuse of liquors, was the general conclusion reached.

CHAPTER XV

WHAT THE PEOPLE WANT

JOSEPH TIMMONS of the *Los Angeles Examiner,* a veteran editor, made a careful and valuable detailed analysis of 7,270 plans submitted to his paper in the Temperance Contest. In a sense, this analysis, representing approximately ten per cent of all the plans entered in the contest, serves fairly well for the entire nation, as it agrees in the main with the vast majority of expressions analyzed. His tabulation follows:

Repeal of Eighteenth Amendment	2372
Amendment of Eighteenth Amendment	1297
Modification of the Volstead Act	1384
Referendum	840
Government manufacture of liquors, private making of beer and wines	1054
Government manufacture of liquor, beer and wines	2176
Private manufacture of liquors, beer and wines	1313
Manufacture of beer and wines only, by government or privately	950
Government dispensaries	2734
Private sale	1956
Local option, State control	803
Miscellaneous	893

While most of these plans came from residents of the area in which the *Los Angeles Examiner* circulates, which includes Southern California, Arizona, Nevada, Utah, New Mexico, and Colorado, a considerable number were sent from all parts

of the United States. Some too, came from Cuba, several from Mexico, Germany, the Philippines, New Zealand and the Hawaiian Islands.

The authors of the plans were men and women in all walks of life, a further demonstration of the universality of interest in the problem created by the Eighteenth Amendment. The legal profession furnished a larger number of the contestants than did any other vocation, though the medical profession was not far behind.

More men than women sent in plans, but these plans from women, though fewer, were more poignant. The mothers disclosed hearts that are breaking over the evil consequences of prohibition to their sons and daughters. The letters which accompanied their plans breathed tearful prayers that through the Hearst Temperance Contest some solution would be found to the present tragic situation.

Some of the best plans transmitted to the *Los Angeles Examiner* were written by working men. Cramped handwriting, awkward phraseology, but none the less very good plans, full of common sense and wisdom were contributed.

The great majority of the men and women who wrote these plans recognized the fact that education must play a great part if temperance is to be achieved. This education, they wrote, must begin with a stock-taking, a general spread of information as to the complete breakdown of prohibition. They declared that the situation would remain hopeless as long as so many people in portions of the country clung to the idea that prohibition presently will be adequately enforced, that even now except in the large cities, its enforcement is satisfactory.

Sane, temperate habit must be voluntary, they held; in education, not legislation, lies the remedy. Educate our boys and girls in the sanity of temperate use of beer and wine, and whiskey and the evils of intemperance will largely disappear, most of the contestants argued.

Almost without exception, those who submitted plans through the *Los Angeles Examiner* pointed out that the

United States indubitably has failed to achieve temperance and has brought about an orgy of crime and vice. The bootlegger was the target of the bitter denunciation of almost every contestant. After him the most contumely was heaped upon the grafting enforcement and police officers who fattened through extortion and blackmail of violators.

"Take the profit out of bootlegging and at once that evil is cured," asserted thousands of the contestants.

Beer and wines were pushed to the front in many of the plans as the cure. The authors of these plans urged that whiskey and other "hard" liquors be banned, but that there should be free making and sale and consumption of beer and wine to wean our people away from excessive indulgence. Others, however, declared that our people are not beer and wine drinkers, that they demand the "hard" liquors and would continue to procure them illegally of bootleggers even though they could get wines and beer legally.

The split on this score among the opponents of the prohibition system was pronounced throughout the contest.

A large number took the plunge into government distilling and sale of whiskey without hesitation. They wrote that government manufacture was essential. Many proposed that the federal government make not only whiskey but beer and wines, all to be sold in government dispensaries. Another group of authors stated that it would be abhorrent to put the government into the liquor business; they would limit governmental activities to stringent control of the traffic.

The Canadian systems, observed by many of the contestants first-hand, became the model for hundreds of the plans submitted. A large number of proposals were made that a great nation-wide American Moderation League be formed, to bring about the establishment of a substitute for the Eighteenth Amendment just as the Canadian Moderation League accomplished the substitution in Canada.

Of the plans that passed through the office of the *Los Angeles Examiner,* 37.1 per cent proposed repeal of the Eighteenth Amendment, 20.3 per cent amendment of the

Eighteenth Amendment, 21.6 per cent modification of the Volstead Act, and 13.1 per cent referendum to the people so that by direct vote the majority would issue a mandate on this problem. Fifteen per cent did not indicate what they wanted done in the matter of keeping or getting rid of the constitutional provision or existing federal statutes, but proposed miscellaneous suggestions—involving the general necessity of education or religious influence, for instance.

Mr. Timmons noted that the excess of the above percentages over one hundred was to be explained by the fact many authors included both amendment, or repeal, of the Eighteenth Amendment and modification of the Volstead Act in their plans or included these with a referendum as a means of achieving such repeal or amendment.

With the constitutional provision repealed or changed to legalize the making of alcoholic beverages, the authors passed to schemes for that manufacture.

Sixteen and a half per cent proposed that the government establish and operate distilleries but leave ownership and operation of breweries and wineries, or the home-making of beer and wines, to private individuals or corporations.

Thirty-four per cent. went all the way and would have the government make whiskey, beer and wines, and everything in the line of alcoholic medicines and beverages.

Twenty and a half per cent proposed private manufacture. Most of these authors proposing drastic government supervision.

Coast contestants in the proportion of 14.8 per cent of the total proposed to maintain prohibition of the manufacture of "hard" liquors, their scheme being to give the people freely, under either government or private ownership, beer and wines. The contention of these authors was that if our people can get good, pure beer and wines at low cost they will cease to drink synthetic gin that smells of obnoxious chemicals, and bootleg whiskey that would dissolve a cold chisel.

Having decided how alcoholic beverages are to be made, what shall be the means of their sale to the people? Shall the

government be the retailer, or shall that job be left to some other agent?

The dispensary loomed large—always meaning a dispensary run by the government. A total of 42.8 of the authors visualized a neat, well-conducted dispensary, with definite hours of operation, sale only by pints or quarts or gallons, to persons presenting cards which would entitle them to a certain limited amount, and no drinking on the premises.

In this connection, a few enthusiastic champions of the dispensary drifted far from ideals of liberty which they had upheld against the Eighteenth Amendment. Some of them would inflict cruel and unusual punishment upon any unlucky person who drank too much of the legalized liquor and exhibited his drunkenness in public. Again it was proposed that any one using duplicity to get more than his limited allotment should be sent to prison for a long term. Since procuring one's limited allowance would involve as much red-tape as marrying, getting soldier compensation, obtaining accident insurance compensation and ousting a tenant combined, most men perhaps would patronize bootleggers rather than be bothered with all the irritating requirements set up in some of these plans.

State control in one form and another, by the separate States, was advocated by 12.2 per cent.

Private sales, by the drug-store or groceries or other agents, even including the old saloon, were championed by thirty per cent.

An unusual suggestion was that government-made whiskey should be sold in "odd-shaped bottles that would fit awkwardly into the hip-pocket." What a chance for tailors to promote trade by advertising trousers with pockets that would easily accommodate these freak bottles! A glass-walled dispensary was another original idea.

A number of contestants offered plans involving nullification of the Eighteenth Amendment through manufacture and sale of alcoholic liquors—the term to include everything we know as alcoholic beverages—under the guise of medicine.

These authors set up logical arguments that pure whiskey, beer and wine are all good for the human system if taken in moderation.

One contestant proposed that an officer designated by the Anti-Saloon League be employed by the government to supervise the sale of liquors, beer and wines in each restaurant or club.

A health plan was for an enforced acid diet that would overcome alkalinity and eliminate from the system of every man, woman and child in America any slightest desire for alcoholic beverage of any kind. A man who said he was a scientist proposed that ozone be brought into general use, to stimulate without intoxicating!

One man planned to have the government make and sell to individuals all over the country diminutive stills. It would be a standardized and automatic still, that would make eight ounces of alcohol and then stop, automatically recording the fact that it had distilled one half pint. The citizen could then proceed to make himself a limited amount of synthetic gin or whiskey or whatever his palate dictated. Government inspectors would read the still meters regularly.

Andrew Propas, a former member of the Greek parliament, now resident in Los Angeles, set forth the virtues of the ancient Spartan "black broth" as an antidote for drunkenness. He said he had rediscovered the formula for its manufacture and was certain that if all Americans could be induced to drink freely of it they would turn up their noses at cocktails and highballs.

Several contestants embodied their plans in verse so badly done that they almost drove several of the expert editorial readers to illicit drink.

While there were these humorous aspects to that segment of the contest which centered in the office of the *Los Angeles Examiner,* the conviction and high purpose evident in most of the plans submitted demonstrated that their authors had struggled earnestly and conscientiously with what they regard as America's greatest problem, Mr. Timmons concluded.

A total of 3,328 plans were received at the offices of the *Boston Evening American.* The bulk of these came from the six New England States but there were many hundreds from such distant localities as the Dakotas, California, Texas and even Europe and Asia.

Some came by telegraph while others were submitted in the form of elaborately printed brochures. There were plans written in French, German, Swedish, Italian and other stranger tongues.

"In 72 per cent. of the plans", according to Fred Toye, of the *American,* "Federal control was advocated. Three per cent. favored independent action by the various States. Seriously stated arguments were lightened now and then by such unconscious humor as references to 'statuary legislation' and 'sumptuous laws'. One writer with an original viewpoint asserted: "the Volstead Act violates Article I of the Constitution: 'Congress shall make no law respecting the establishment of a religion.' Substitutes for alcohol, formulae for spirituous liquors, drink cures, and religious appeals punctuated the daily offerings. They served to emphasize the intelligent, thoughtful and scholarly type of contribution which was typical of those received. Evidencing the universality of appeal and opportunity which the contest offered was the fact that two plans of outstanding merit were received on the same day—one the work of an eminent legal authority on the Constitution, the other containing the proposals of a twelve-year old Boston school boy."

Nearly 4,000 contestants submitted plans to the Temperance Contest office maintained by the *Detroit Times.* A great majority of these contained proposals for Federal manufacture and sale of liquor. Detroit is located just across the river from the Province of Ontario which recently overthrew its species of prohibition. Many of the entrants submitted variations of the Canadian control systems. One such system found high favor in the eyes of a contestant, who simply added his name and address to a copy of the Ontario liquor control act which he mailed without comment.

Detroit is a decidedly cosmopolitan city and it is obvious that many readers of the *Times* are in the habit of mailing copies of that newspaper to friends and relatives in foreign lands. As a result plans were submitted by citizens of distant countries; even the Isle of Malta was heard from. Contestants of German descent made invidious comparisons of American and German methods of liquor control. As for France, drinking in that country was described by one writer as "ideal."

But Canada, more often than any other country, was held up as a model. More than one contestant wrote of conditions which prevailed in Canada seventy-five years ago: "Canadians bought good whiskey for twenty-five cents a gallon. Everyone drank who wanted to—drank all the whiskey he wanted—but I never saw anyone drunk."

There were a handful of examples of the workings of the sadistic mind. Thus one contestant would achieve temperance by enforcing the Volstead Act, violations to be penalized with graduated punishments, beginning with a minimum of twenty lashes and two weeks on bread and water, the lashing to be repeated every fortnight. That plan, however, was balanced by the proposal submitted by a contestant of more fertile imagination:

"Set aside one day for drinking. We celebrate Christmas, Thanksgiving Day, and so on. You never think of eating turkey except on Christmas or Thanksgiving. You never think of shooting off firecrackers except on the Fourth of July. Then if we have one day set aside for drinking and let everyone have all they want, they won't think of it again until next year."

An even more liberal-minded contestant favored the erection of public fountains in every town, these to be of the nickel in the slot, self-serve type.

All but a negligible minority of the participants expressed their disgust with the present scandalous situation and argued for a prompt correction of existent evils. Almost without exception, however, those who submitted plans through the

Detroit Times were firmly convinced that it would be a mistake to resurrect the saloon.

The *San Francisco Examiner* received 7,318 temperance plans. Oliver Tuttle of the *Examiner* staff summarized these plans as follows:

"Approximately 80 per cent discuss the distribution and sale angles of the problem. Of this 80 per cent., 78 per cent. advocate government liquor control of some sort. Forty-five of the 78 per cent. want liquors manufactured and sold by private enterprise, but under the strictest government supervision and license. The remaining 33 per cent. think the government should have a complete monopoly of the liquor business. A very small percentage, about two per cent. of the total, believe that manufacture of liquor in the home should be allowed without restriction on the ground that whatever is easy to get is not considered of great value.

"Sentiment against the old saloon with its treating evil was almost unanimous. There were scarcely a dozen plans that advocated its return. The great demand, as shown in the plans, is for stores where liquors will be sold in sealed bottles which must be taken from the premises to be consumed. Another great faction asks for sale of light wines and beers at grocery and delicatessen stores, and distilled liquors by permit at drugstores. The permit plan of sale is advocated by 65 per cent. of the plans which discuss the sale angle of the problem.

"Existing prohibition legislation was excoriated by 99 plus per cent. of the plans submitted. Of those who advocate modification of existing legislation, 26 per cent. urged repeal or amendment of the Eighteenth Amendment; 12 per cent. asked for modification of the Volstead Act to permit light wines and beer; 2 per cent. declare the Eighteenth Amendment unconstitutional and asked that the Supreme Court reverse its former decision on the matter.

"The idealists declared that the Eighteenth Amendment must be blotted out of the Constitution. Any change in the Volstead Act which would tend to nullify the Amendment

would not be tolerated by the people so long as the Amendment is part of the Constitution, they averred. The pragmatists said that repeal of the Eighteenth Amendment was not politically possible during this generation and they pointed to the Fourteenth and Fifteenth Amendments as examples of Amendments which have been nullified in effect without being repealed. All joined in agreeing that something must be done and that soon, to save the nation from the train of evils which have followed in the wake of prohibition these last ten years."

The extraordinary total of 4,889 plans were entered in the contest through the *Pittsburgh Sun-Telegraph*. "The most significant feature," according to W. I. Grundish of that newspaper, "was that of the many thousand contestants only eleven expressed satisfaction with conditions under the Eighteenth Amendment. Significant because Pittsburgh proper, politically opposed to prohibition, is surrounded by western Pennsylvania, eastern Ohio and West Virginia counties, regarded as strongholds of the prohibition cause. Many of these counties were 'dry' under various local option laws before the Amendment became part of the Constitution. At least one-half of the plans received came from that territory. Our classification of entries showed the following:

Total number of plans received	4,889
Total favoring government control	3,166

"The plans of those who favored government control were separated as follows:

Involving Repeal of 18th Amendment	399
Involving Modification of 18th Amendment	209
Involving Repeal of Volstead Act	332
Involving Modification of Volstead Act	665
Government Control	1,561

(Most of these urged variations of the Canadian system in more or less detail and all implied repeal or modification of the present laws without stating what definite change would be needed.)

Total favoring return to old saloon system	104
(Many favored the Pennsylvania Brooks high license law, now repealed. Most urged a 'non-treating' law.)	
More drastic penalties to enforce present laws	266
Rewards for informers under present laws	46
Moral suasion to stop violation of present laws	9
Manufacture of liquor in homes for home use only	91
Strict enforcement of present laws until public revolts	19
Temperance by education	152
Favoring a referendum, the result of which would be decisive	143
Demanding better officials and stricter enforcement	75

Approximately 90 per cent. of the 1,778 entrants in the Hearst $25,000 Temperance Prize Contest who submitted plans through the *Atlanta Georgian* and *Sunday American* were proponents of government control of liquor in one form or another. Nearly half of those who advocated government control proposed the dispensary system as the best solution of the problem. A majority of the entrants favored State and local option. Only three out of the entire list proposed the return of the open saloon. That the saloon must never be allowed to return under any circumstance was the consensus. Approximately three-fourths of those advocating governmental control of liquor stated their belief in the necessity for repeal of the Eighteenth Amendment and the Volstead Act.

Although the overwhelming majority of contestants treated the subject with due seriousness many of the plans were distinguished chiefly by naïveté. Nor was the serio-comic plan lacking. Thus from St. Andrew, Fla., came the suggestion that all citizens, except clergymen, be compelled to operate a family-size still so that the bootlegger could no longer find a market for his product. An Atlanta resident suggested that the country be bisected by a barbed-wire fence guarded by anti-aircraft guns, the territory on one side of the barrier to be occupied by drys thus adequately guarded from invasion by the wets. Then there were three convicts who, in submitting plans, confessed that they were serving

time for violation of the liquor laws. And there was the woman who wrote "I spent four months in Canada and had only one bottle of beer. As soon as we arrived in the States I was looking for a drink of poor whiskey." She added:

"I have a very dear friend who had a wonderful business in my home town that lost everything through drinking. He borrowed enough money to go to Mexico. He writes me that there is liquor at every corner but he hasn't taken a drink since the day he arrived. As for myself I am saving my money. At the end of the Summer I also shall buy me a ticket to old Mexico to sober up."

But as has been suggested, the majority of the Pittsburgh district contestants fortunately composed their plans with a more altruistic motive than did the writer who has been quoted in the foregoing.

Alvaro Shoemaker of the *Seattle Post-Intelligencer* wrote pungently of the contest. Space permits only a part reproduction of his excellent summary:

"Isaiah might have had the Hearst Temperance Contest in his prophetic mind when he wrote the eleventh verse of his Twenty-Fourth Chapter: 'There is a crying for wine in the streets; all joy is darkened, the mirth of the land is gone.' At any rate, as a long-distance vision this reflects the spirit of 90 per cent. of the plans submitted to the *Post-Intelligencer,* which served as the central agency of collection for the Pacific Northwest.

"Among the 3,052 answers received by the *Post-Intelligencer* those expressing forthright and unqualified support of existing conditions could be counted on one's fingers. Immoderate outbursts of zealots were negligible in number. Those that came to the defense of the Eighteenth Amendment and the Volstead Act were manifestly unable to conceal the doubts which harried their troubled souls.

"It is not, however, strictly accurate to say that 'all joy is darkened.' Joy was obvious in more than 90 per cent. of the essays—joy evoked by the fact that at last the smug 'shushing' era of prohibition was at an end; joy that oppor-

tunity had come for airing the whole shameful story; joy that after ten years of hypocrisy on the part of prohibition's supporters the populace had been invited to speak.

"And there was mirth, a not unholy glee, as of those who had just emerged from a dungeon to see their imprisoning ogre turned into a fool, capped and belled by the futilities of his own fatuous desires and acts. The *Post-Intelligencer* circulates largely in the States of Washington, Oregon, Idaho and Montana, together with the Province of British Columbia and the Territory of Alaska. Scattering replies were received from California, Utah, North Dakota, South Dakota, Colorado, and the Canadian prairie provinces of Alberta, and Saskatchewan.

"Some of the essays from our Northern neighbor came from American citizens, but most of them were submitted by Canadians offering friendly advice based on their own experience with prohibition followed by government control. Fully 90 per cent. of all essays received by the *Post-Intelligencer* advanced plans embracing some form of federal control of the drinking problem, or a federal hands-off policy coupled with State control. The significance of this lies in the fact that 75 per cent. of the contestants in this area live within 200 miles of the Canadian border. At some time during the year they are accustomed to visit the Canadian provinces and at least a part of their mission concerns itself with an informal and unofficial 'inspection' of Canadian methods of controlling drink.

"The other side of the medal has been shown them by their experience at home. Oregon, Washington and Idaho have coevally seen about the same developments in connection with the liquor traffic. The open frontier days were followed by local option, then a permit system by which liquor in limited amounts could be ordered from supply depots in Montana or California, then state prohibition, 'bone dry', without rights to medicinal alcohol, and finally national prohibition—and booze everywhere. Montana enacted concurrent enforcement legislation, which was soon repealed.

"Thus, people of the States covered by the *Post-Intelligencer* had broad experience with liquor control. Then too they have enjoyed the benefits of close contact with a people who, after similar experiences, have abandoned prohibition, for each of the Western Canadian provinces has tried prohibition and given it up as a hopeless job.

"Incidentally, on holidays, every highway leading to British Columbia is densely filled with automobiles freighted with those afflicted by the great American thirst. This traffic congestion, equalled only in a few of the most densely populated Eastern centers, is handled actually with a lower percentage of traffic casualties than would be the case in 'dry and sober' America under similar circumstances—similar except for the grade of liquor.

"This is not to recommend alcohol as an indispensable agent in traffic safety. But facts speak for themselves, and they should be comforting to those who say that America can not have both liquor and automobiles. America has both right now—very good automobiles and very bad liquor.

"As already stated, 90 per cent. of contestants in the Pacific Northwest expressed themselves in favor of some form of government control. About half of these specifically advocate repeal or modification of the Eighteenth Amendment or the Volstead Act, or both. Through oversight, or hesitancy to openly suggest repeal or nullification, the other half suggest federal or State control of such nature that it would conflict with the Eighteenth Amendment and the Volstead Act, in their present language. Therefore, these two groups might properly be combined and described as being in favor of wiping out present prohibitory laws, or modifying them in a manner that would amount to repeal. A scattering few advocate a clean sweep of all laws bearing upon liquor, leaving everything wide open for home or commercialized manufacture and sale or use. Yet others, also few in number, want home brewing licensed, with no commercial manufacture or sale.

"A minority believed sales should be permitted in grocery

stores, drug stores, at soda fountains and other much frequented places. Most of these would limit permitted alcoholic beverages to very light wines and beer. There is about an equal division between those who would have the government derive profit and those who would have the controlling authority operate at cost. There is general agreement that prices must be kept down to a point which, through competition, would destroy the bootlegging business. Less than one-half of one per cent of those entering essays believed that higher penalties would aid enforcement. The vast majority of the writings showed earnest purpose; half of them reflected the workings of an orderly mind. There were few 'cranks'."

Some of the difficulties the conscientious man encounters in conducting a contest were set down by E. H. Wilkinson shortly before his death, which occurred suddenly. Associated with the Hearst newspapers for thirty years, Mr. Wilkinson, until the day of his death, latterly had been City Editor of the *Washington* (D. C.) *Herald*. He wrote this posthumously published comment:

"When the announcement was made that William Randolph Hearst was starting a contest in his papers for the best temperance plan as a substitute for prohibition, we were inundated by letters asking for details. After the contest started, the request for details did not fall off perceptibly. It was not until the last week of the contest that these letters stopped and the *Herald* tried to direct the writers by telling them that the rules of the contest, which were the sole guide, were to be followed exactly.

"Many seemed to think that plans sent to the *Herald* would get quick action, because the *Herald* was so near the seat of government! Another peculiarity of the contest was carelessness evidenced in signing the plans. We received no less than seventy plans without any mark of identification. Some signed their names but omitted addresses, suggesting that in the event of their winning a prize they would make their whereabouts known. Plans from every section of the United

States were sent to the *Herald,* in spite of the fact that Hearst dailies are published in the States from which they came.

"In more than one instance whole families took part in the contest. Thus each mail from a certain Southern city would bring in a letter containing a plan, all in the same handwriting, but signed by a different name each time. No less than eighteen such letters reached the *Herald.* Another family waited until the last minute and then submitted ten plans signed by its different members. The rush of the last week of the contest was terrific. The force employed in acknowledging and tabulating and shipping the plans to New York was almost constantly at work, with hardly time enough to eat. Since the close of the contest, there has been a flood of letters asking when the awards will be made to the winners of this, the greatest competition in the history of journalism."

Through the *Chicago Herald and Examiner* 8,420 plans were submitted by contestants, some of whom wrote from such distant points as Palm Beach and Montreal. In commenting on the plans received, Emil Garber of the *Herald and Examiner* said:

"One of the most humorous cases brought to the attention of the editor was a letter from a man in Michigan received two days after the close of the contest. 'Hold the decision of the contest until you have received my plan' read the letter. 'I am going to win that $25,000. I have sent a copy of my plan to President Hoover and am awaiting his endorsement of same before submitting it to you for consideration.'

"The editor learned that on the same day the letter was received this same Michigan resident attempted to force his way into the executive office of President Hoover. He was arrested and when questioned said he wanted to submit a temperance plan to the President. As yet his plan has not been received at temperance headquarters of this newspaper."

The ensuing comment on an attempted composite of the

best plans received in the Hearst Temperance Contest is that of Will West, magazine writer, who was the author's chief assistant in directing the multitudinous details of the great competition. Mr. West analyzed the ideas advanced in 100 of the prime essays, and then by comparison of the principles suggested for relief, was able to cut this number to fifty, for purposes of the tabulation subjoined, without the loss of any essential points.

An apparent difficulty of reducing any particular number of the plans to a coherent mosaic, or composite, was that if one good main idea were chosen, it would be impossible to reconcile it with another good idea, for the two would be at cross purposes. The "composite" project was abandoned and he was finally forced to show the result in figures, and even the numerals resulting perforce conflict, as will become obvious. Mr. West's analysis:

It is generally agreed that a pinch of salt is improved if it is dropped into a glass of beer. And it would seem that statistics as a rule require at least a modicum of saline seasoning.

When one has at his disposal the proposals of more than 70,000 people there is a natural temptation to attempt to perform an autopsy on that great body of opinion and then to synthesize. But the task presents difficulties as great as those encountered by a man who would tabulate the chief characteristics of the paintings assembled in the Louvre: having noted that 91 per cent of the paintings have been executed on canvas and that 19 per cent of them delineate nude profiles against crimson velvet hangings, the Louvre diagnostician would probably find himself unable to adduce additional statistics of value.

In much the same way is tabulation of the chief characteristics of the Hearst Temperance Contest plans restricted. So that the composite picture must be painted in primary colors for, obviously, countless nuances of meaning cannot be indicated by percentages.

And the figures must be interpreted with the greatest care. Thus, cursory examination of the plans quickly reveals that only a minority of contestants specifically stated objection to the return of the saloon. But an overwhelming majority indicated by *implication* their opposition to the saloon.

Similarly the great majority of competitors envisioned changes in the Volstead Act, but, largely because of the necessity for brevity, many of such competitors were content to *imply* rather than specify modification. However, it was not deemed practicable to tabulate measures advocated by implication only.

With these explanations there is here presented a tabulation of the most popular expressed suggestions, based on an analysis of fifty outstanding plans:

Repeal or modify Volstead Act	54%
Repeal or amend Eighteenth Amendment	44%
Local option	52%
Private manufacture under federal control	38%
Federal manufacture and sale only	4%
State manufacture and sale	2%
Federal control of distilled liquors only	10%
Scientific study and education	28%
No saloon sale	26%
Appoint federal liquor commission	20%
National referendum	16%
State referenda	10%
National citizen association	16%
Constitutional convention	10%
Voting "pressure blocs"	4%
Tax high alcoholic content heavily	10%
Sale in hotels, restaurants, etc.	8%
Low taxes and licenses	6%
No distilled liquors	6%
Buyer and seller equal offenders under new regulations	4%

CHAPTER XVI

Prize-Winning Plans

THE Grand Prize Plan, which received the award of $25,000 from the Board of Judges in the Hearst Temperance Contest, is published at the beginning of the book. Some of the comments upon it are given in this chapter.

Second Prize Winner, $5,000 Award

Brigadier General Albert C. Dalton, U. S. A., Retired, winner of the $5,000 second prize in the Hearst Temperance Contest, was born in 1867 and has seen forty years of active service in the United States Army.

He enlisted in the 22nd Infantry in 1889 and participated in the campaigns against the Cheyenne and Sioux Indians. He was a member of the Cuban Army of Occupation. Later he served with troops in the Philippines.

He took part in the Vera Cruz expedition in Mexico preceding Pershing's punitive expedition. At the beginning of the World War he was Superintendent of the Army Transport Service in New York and in 1918 was sent overseas in command of an infantry brigade.

He was Assistant Quartermaster-General from 1922 to 1926 when he was retired, by his own request, that he might become president of the U. S. Shipping Board and Emergency Fleet Corporation. From that post he resigned in 1929 to devote his time to private interests.

He is a resident of Washington, D. C.

Following is General Dalton's plan:

First—

Make no attempt to repeal the present 18th Amendment, which is impractical politically. No Amendment to the Constitution has ever been repealed.

Second—

Repeal the present so-called Volstead and Jones Acts and any other laws of like character having any direct bearing upon the prohibition problem. This would be automatically accomplished by passing an entirely new Enforcement Act.

Third—

The new Act should provide for the following:

1. The creation of a Federal Prohibition Commission, with full power to prescribe all rules and regulations respecting the manufacture, sale, transportation, importation, exportation, or handling of beverages of any character, whether classed as intoxicating or non-intoxicating, and of alcoholic products of any character used for commercial, industrial or medicinal purposes in the United States or its Territories and possessions.

The Commission should have special powers respecting the interstate transportation of alcoholic products and beverages to prevent the restriction or prohibition of such transportation by States that were opposed to or had enacted laws of a prohibitive character respecting alcoholic beverages.

It should be composed of seven members, appointed by the President and approved by the Senate. The normal term of appointment to be six years, with the original appointments made of varying duration, so that the term of office of not more than two Commissioners shall expire at the same time. The salary to be $12,000 per year. The Commission to be non-political in character. One Commissioner to represent and be appointed from each of the following territorial and geographic areas of the continental United States: Northeastern area, Southeastern, North Central, Mid-central, South Central, Northwestern, Southwestern. The area as indicated to be so designated and prescribed in the Act, and to include such States as to have each of the several geographic sections of the United States equitably and adequately represented on the Commission. Commissioners to be removed for cause, or at the will of the President.

JAMES B. QUINLAN, JR.

THOMAS W. THERKILDSEN

ALBERT CLAYTON DALTON, *Brigadier General, U. S. A., Retired*

2. Congress should impose upon the Federal Prohibition Commission certain restrictive and directive limitations, including:

The prohibition of the sale of beverages with an alcoholic content, or of alcoholic products of any character for commercial or industrial purposes, excepting in original sealed containers of a specified minimum capacity, on which shall be printed a certificate by the manufacturer as to the contents, the quantity, and the percentage of the alcoholic content. (Exceptions to be made only in cases where the alcohol is sold on prescription by a physician for medicinal use.)

The prohibition of sale of any beverage with an alcoholic content in any public place of entertainment, public meeting place, public gathering, hotel, restaurant, or any vessel or water craft within the territorial limits of the United States or its Territories, or upon any vessel or water craft operating under the American flag or American registry on the high seas, other than in the original containers and subject to the regulation of the Commission.

The prohibition of a public bar, or drinking place, for the sale, handling, or dispensing of alcoholic beverages except in the original sealed containers as prescribed.

Fourth—

Provide for taxes to be levied upon the production of alcohol, alcoholic beverages and licenses for the sale or handling by the Federal Government, to defray all costs of the regulation of the traffic.

Do not overtax—Do not unjustly discriminate in levying taxes and charges against alcoholic beverages in favor of non-alcoholic beverages. The abstainer and the non-abstainer should have equal rights.

Fifth—

Provide for the levy by States of taxes on alcoholic beverages, and the issue of licenses for the sale and handling, so that there may be an equitable division in this respect of the revenue derived from this business.

Sixth—

Leave to each State the full power to elect, by a popular referendum of its citizens, whether or not there shall be within its territorial limits or its own jurisdiction, any manufacture, sale, or traffic in alcohol, alcohol products, or alcoholic beverages. Each State or Territory to prescribe by State law the percentage of alcoholic content, provided that such alcoholic content shall not exceed that prescribed by the Federal laws or regulations made in compliance therewith.

Place the burden of responsibility and the expense of making its own laws effective upon each State or Territory.

Seventh—

Provide adequate penalties for violations of the Enforcement Act. Penalties to be imposed upon the persons who drink in violation of the law, as well as upon the persons who serve them.

Eighth—

Require a full checking and accounting of the products of all alcohol manufacturing plants.

Ninth—

Require a full checking of the products of all plants that produce alcohol as a by-product.

Tenth—

Prohibit poisoning of alcohol in any form.

Eleventh—

Make alcohol, and beverages with a reasonable alcoholic content, a common commodity, as common as "near beer," under proper regulation of the Federal and State governments, and the natural resentment now shown throughout the Nation against the present unfair and unenforceable laws will soon give way to a natural desire of all our thinking people

to respect the ordinary rules of common-sense and temperance in the use of alcoholic beverages.

Twelfth—

Make a clear distinction between:

a. Malted Beverages—beer, ale, stout, etc.
b. Fermented Beverages—wines, champagnes, etc.
c. Distilled Beverages—whiskies, brandies, etc.

Limit the maximum alcoholic content of each as follows:

a. Five per cent.
b. Fifteen per cent.
c. Thirty-five per cent. (To be sold for medicinal purposes only.)

Permit the sale of sealed original packages or containers of the three classes of the following minimum capacity for each container.

a. One Pint.
b. One Pint.
c. One Quart.

Permit no sale or the serving in any public places of any less quantity than that prescribed above, with a penalty for any violation of this provision.

Third Prize Winner, $2,000 Award

Thomas W. Therkildsen, winner of the $2,000 third prize in the Hearst Temperance Contest, is Executive Secretary of the Moderation League, Inc., of New York, an organization which seeks to overthrow prohibition by educational means but not by political pressure. Among its directors are Elihu Root, Henry S. Pritchett, former president of Massachusetts Institute of Technology, William Barclay Parsons,

president of the board of trustees, Columbia University and Charles H. Peabody, president Mutual Life Insurance Company.

Mr. Therkildsen, a native of New Jersey, is 38 years old. He attended Columbia University and New York University and at one time was associated with a New York law firm.

At the outbreak of the World War, he enlisted as private in the 10th Infantry, New York National Guard. He was shortly commissioned first lieutenant and in 1919 was promoted to a captaincy.

He was formerly secretary of the New York State division of the Association Against the Prohibition Amendment.

He is married and lives in New York City.

The Therkildsen plan follows:

In preparing a plan to establish temperance in the United States the first question to answer is, "Can such a plan be established without repealing the Eighteenth Amendment?"

A careful reading of the Amendment shows that it prohibits only intoxicating liquor for beverage purposes. Mark well the words "intoxicating" and "beverage purposes."

With the above facts in mind I believe that temperance can be established in the United States by the adoption of the following plan:

First. Repeal the present National Prohibition (Volstead) Act.

Second. Enact a new law which shall be known as the National Temperance Act, providing:

(*a*) For the manufacture, sale, transportation, importation and exportation of alcoholic liquor for medicinal purposes, to be sold by licensed druggists only upon prescription by a licensed physician, without limitation as to the amount or kind of liquor which the doctor may prescribe.

At the present time doctors may prescribe only one pint of whiskey or one quart of wine in ten days. If, in the doctor's judgment, a patient requires some other kind of liquor, or an additional quantity, it is necessary either for the doctor or the patient to break the law.

(*b*) For the manufacture, sale, transportation, importation and exportation of cider and natural wines; that is, wines that result from the natural fermentation of fruit juices.

At the present time these wines may be legally made in the home, and the legality of their manufacture has been upheld in the cases of United States vs. Hill and United States vs. Isner. The above provision is to be inserted in the law so that persons who by reason of locality or home conditions are not able to carry on home manufacture may legally procure such cider and wines.

(*c*) For the manufacture, sale, transportation, importation and exportation of beer containing not more than 2.75 per cent. of alcohol.

That such beer is not intoxicating was conceded by the Government in the case of Ruppert vs. Caffey. Also, Wayne B. Wheeler, in *The American Issue,* of March 21, 1924, said that Congress could legalize 2.75 per cent. beer.

(*d*) That the Federal Government shall enforce this law only in so far as interstate commerce, importation and exportation are concerned; leaving enforcement within the States to the States themselves. This would obviate the double jeopardy inevitable under the present system of dual enforcement.

(*e*) That medicinal liquor shall be sold only by manufacturers, and wholesale and retail druggists licensed by the various States.

(*f*) That the sale of cider, wine and beer permitted in this Act shall be by stores established exclusively for that purpose under license by the various States.

(*g*) That the beverages permitted in this Act shall be sold in sealed packages only, for consumption at places other than the place of sale.

This provision will be an insurance against the return of the saloon and at the same time make it possible to procure beverages legally for home consumption, or to transport them to hotels or restaurants to be consumed.

Third. Each State that wishes to permit the beverages permitted by the National Temperance Act would enact laws providing for the required licenses. These laws should provide that counties shall have the right to vote at specified times on the question whether or not the manufacture or sale of such liquors or beverages shall be permitted in the county. If the county votes for permission, the law should provide that the number and location of places licensed to sell shall be determined by a committee of three citizens of the county, appointed by the County Judge; except where a county consists in part of cities of the first or second class, in which case the appointment of the committee should be by the senior Supreme Court Judge located in such county.

The Federal Government now has the right under existing laws to collect import duties and internal revenue taxes on the beverages provided for in this Act.

Nothing in the proposed legislation would force any State to permit what its present laws forbid. The prohibition against shipment into States which do not desire to permit the beverages permitted by the proposed legislation would be covered by existing laws.

Fourth Prize Winner, $1,000 Award

James B. Quinlan, Jr., was the winner of the $1,000 fourth prize in the Hearst Temperance Contest. He is a successful building contractor of Alhambra, California, where he lives with his wife and young daughter. Born 29 years ago, he was graduated from Stanford University in 1927.

The full text of the Quinlan plan follows:

Ten years of practical experience have proved the Volstead Act, as a reasonable and practical interpretation of the Eighteenth Amendment, inadequate, pernicious in its effects and inherently subversive of the ends of American individualism and Constitutional government.

A law that stands in conflict with the ideals, desires, cus-

toms and tendencies of a large number of citizens and forbids a practice which is not in itself a shock to social conscience, imposes an intolerable restraint and discourages self-reliance in the individual.

The end of American individualism is the cultivation of self-reliance—the extension, not the limitation, of individual free action. Free choice in matters of eating and drinking, within reasonable lawful limits, is the very essence of personal liberty, a right clearly indicated by the Constitution of the United States, the regulation of which is expressly reserved to the several States of the Union. Abridgement of this right, however noble the purpose, leads to resistance by the individual, to opposition and nullification by the States, and to open violation which takes the form of crime.

The intent and purpose of the Eighteenth Amendment is to prohibit the use of intoxicating beverages to citizens of the United States and of territories under its jurisdiction. Its effect, as interpreted by the National Prohibition Act, or Volstead Law, is to criminalize a great number of citizens by making unlawful that which is deemed harmless if not used to excess. Obviously such a measure is in itself an abuse of power and inconsistent with the letter and spirit of the Constitution. Repudiation by the people is imperative. Orderly agitation to that end and substitution of appropriate legislation, based upon principles of justice and reason, is urgent.

Successful administration of the substituted measure depends upon adequate definition of State and Federal authority. But the all-important problem is to secure concerted expression of the people on the subject, so that they may authorize change by Congress in unmistakable language.

Repeal of the Eighteenth Amendment is an impractical method of change (even if desired by a vast majority of the electorate). One-thirty-sixth of the qualified voters in the thirteen smallest States could prevent an amendment to the Amendment. Yet a majority in four States, with a population four times that of the combined thirteen, have vigorously repudiated the existent National Prohibition Act.

There remains but one truly conceivable method of change. The Congress of the United States should modify the Federal Act to enforce the Eighteenth Amendment so that the same shall not prohibit the manufacture, sale, transportation, importation of beverages which are not in fact intoxicating as determined in accordance with the laws of the several States.

Let all the people vote for the first time upon the measure as it stands. Make that vote mandatory on Congress. Let the definition of intoxicating beverages, a fanatical conceit under the existing law, become a matter for State determination and State administration. Let the State desiring radical prohibitive measures have them, but let it provide means of control from its own purse. Let the remaining States regulate personal habits and customs with a measure of tolerance based on experience.

Modification opens the way to self-determination by the respective States. Usurpation of power by the Federal Government in matters peculiarly adapted to State regulation and control tends to destroy the political identity of the individual State and to centralize authority in Washington. Federal jurisdiction is strictly limited to matters of general government, to interstate rather than intra-state business. The several States must cherish and preserve their political integrity.

The States, again sovereign in their reserved rights, may look to the experience of various countries which have tried prohibition and failed. Their adoption of temperance measures came in time to avert dangerous social upheavals. Their subsequent experience in government control and regulation are models well worth serious consideration.

One troublesome obstacle remains. By what agency is the measure to be presented for a vote of the people? The Constitution explicitly provides for the emergency: The President of the United States, chief spokesman of the whole people, "shall from time to time give Congress information of the state of the Union and recommend such measures as he shall judge necessary and expedient."

Recommendation in this national emergency clearly devolves upon him as a duty in the interest of public welfare. Unofficial but significant polls of the press upon this, a purely social issue, have persistently demonstrated the popular sentiment for change, essentially as herein expressed, by a vote of 5 to 1. But only through the President's official recommendation can Congress be induced to present the question for a vote of the people and thus receive the popular mandate.

This plan is founded upon the proposition that the right of individual free action, particularly as affecting eating and drinking within reasonable lawful limits, inheres as a right of every American citizen. The power to establish lawful bounds resides in the sovereignty of the several States and of the people. But the States may prescribe those bounds only within the sphere of sovereignty not expressly prohibited them by the Constitution.

It is based upon the conviction that temperance is a virtue which may be cultivated by example and instruction, but that appropriate laws, tolerantly conceived and judiciously administered, may serve to promote the desired end.

Enlightened public opinion expressed in law should represent the common political experience of a people at a moment on its road to freedom. All laws are experimental. They are in the making. They proceed by trial and error. Their ultimate success depends upon their adequacy in relation to human motives and actions, the degree of enlightenment of the people who make them, the efficiency and intelligence of the officials who administer them.

This plan, "a practicable substitute for prohibition," suggests the first step toward "actual temperance conditions." Its adoption will automatically tend to correct and ultimately abolish existing evils and preserve the moral balance and political integrity of the Nation. I respectfully submit it to the thoughtful consideration of the American people.

A comparative analysis shows that all four of the winning plans agreed on the present impracticability of repealing or

amending the Eighteenth Amendment; on the practicability of supplanting the present enforcement laws by more enlightened legislation; and, specifically or by implication, in the desirability of returning to the States the fullest possible measure of control, especially in the matter of light wines and beer.

In all other points there was variation. Justice Hoyt, winner of the $25,000 award, went directly to the heart of the problem of making possible the return of light wines and beers under State control, and retaining Federal prohibition of distilled spirits, under a workable definition of the words "intoxicating liquor" as contained in the Eighteenth Amendment.

Brigadier-General Dalton, on the other hand, considered in some detail the structure of a Federal Prohibition Commission which shall concern itself, subject only to general provision of the law, with matters of policy as well as administrative and regulatory duties.

Captain Therkildsen would limit the Federal government under a proposed "National Temperance Act" to enforcing its provisions only as to interstate commerce, imports and exports, placing responsibility for enforcement of its other regulations upon the States, and making beer and light wines freely accessible to all.

Mr. Quinlan, winner of the fourth prize, advocated a popular referendum on the question, "to be initiated by the President in a message to Congress in the interest of the public welfare," as preliminary to a change in the existing national prohibition laws, and would make the definition of intoxicating liquor a matter for State determination and place responsibility upon the States for framing and enforcing regulations adapted to local conditions, subject only to the underlying regulations of the Federal law.

An editorial on Justice Hoyt's plan published in the *New York World,* was one of the first criticisms to be published:

"The plan submitted by Presiding Justice Franklin Chase Hoyt of the Children's Court, who has been declared the win-

ner in the temperance prize contest sponsored by William Randolph Hearst, has the rare merit of simplicity. He accepts the Eighteenth Amendment as beyond repeal. In the existing situation the trouble lies with the Volstead act; there, with the change of only a few words, the law and public opinion throughout the country could be brought into conformity.

"It is an ingenious expedient that Justice Hoyt recommends. In brief, what he proposes is that the prohibition in the Eighteenth Amendment against 'the manufacture, sale and transportation of intoxicating liquors for beverage purposes' be defined by Congress as applying to 'all alcoholic products of distillation'; then each State should be permitted 'to regulate and control the manufacture and sale of all malt, brewed and fermented beverages within its own borders.'

"In support of his proposal Justice Hoyt points out that the word 'liquor' in the past was very generally applied to distilled spirits in contradiction to fermented products, and in common parlance, even at the adoption of the Eighteenth Amendment, the word 'liquor' usually meant spirituous drinks, such as whiskey, gin, brandy, etc. What position the United States Supreme Court might take is a matter that must be left to the future in any event. There, however, the author of the plan hopefully holds that common sense would rule in rendering a final decision.

"The bar to adoption of Justice Hoyt's proposal would be the hostility of fanatics of the Anti-Saloon League type to any change for the better. To a theory that is unworkable and a statute that is unenforceable they are committed beyond chance of conversion; and Congress is as yet in awe of their political power to punish those who disagree with them."

Other criticisms, some of them of less friendly or intelligent nature, are subjoined:

Representative R. Cramton, of Michigan:

"You can quote me as saying that, without reading the Hoyt plan, I am against it."

Senator James E. Watson, of Indiana, Republican Leader of the Senate:

"I notice that Justice Hoyt said there is not much chance of repealing the Eighteenth Amendment. That is a good start.

"I am for giving all the resources and machinery necessary to enforce prohibition. Prohibition has not yet been given a fair trial, because it has not been fully enforced. Until it has been given a fair trial, with effective enforcement, I think it is useless to consider changes in the basic law."

Representative Sol Bloom, of New York:

"The prize-winning plan very properly makes a distinction between distilled and fermented liquors. By making such a distinction in the law, Congress would be conforming to the sentiment of the people at large, who have, I believe, no objection to the manufacture and sale of light wines and beer. Beer of say 2.75 per cent alcoholic content certainly could not be construed by the Supreme Court as intoxicating.

"If a law is passed such as recommended in this plan it will result in better law enforcement generally and curb the present lawlessness which has been caused by the sumptuary prohibition law, which strikes at the liberty of the people and therefore is repugnant to them."

F. Scott McBride, general superintendent of the Anti-Saloon League:

"The Hearst Prize Contest was apparently a great success as newspaper publicity, but it was a flat failure as an effort to reach a solution of the liquor problem.

"That the winning plan would advocate beer and wine was a foregone conclusion in view of the well known attitude of the Hearst papers and of most, if not all of the judges.

"The plan presented is not worth the paper that the $25,000 check was printed on, because it has no chance to be adopted, and if adopted would not have the shadow of a chance to succeed.

"Although the prize was offered for a practical plan, the judges by some strange process of reasoning selected a method that would have to get past four practically insurmountable barriers.

"First—The present Congress will not pass a law calling

beer and wine not intoxicating and the people are not likely to elect a future Congress that would.

"Second—President Hoover will never sign a bill restoring legal intoxicants by indirection and the people are not likely to elect a President that would.

"Third—The Supreme Court is not likely to uphold a law permitting what the Constitution plainly and clearly forbids.

"Fourth—The various States would not permit beer and wine even if incredibly the three branches of the Federal Government should.

"Invariably dry States have defeated beer and wine proposals by larger majorities than those by which State prohibition was adopted.

"A few Eastern States might conceivably try beer and wine, but the prize plan was supposed to be a nation-wide solution of the problem.

"But judged abstractedly on its merits aside from the extremely remote possibility of its adoption, the prize plan, worth $25,000 to its author, is not worth 25 cents as a remedy for the evils of alcoholism.

"It would increase instead of decrease the alcohol habit. It would entrench instead of rout the liquor traffic. It would restore all the evils of beer and wine and infinitely increase the difficulty of enforcing the law against whiskey.

"Beer and wine would stimulate the desire for stronger intoxicants and protect the whiskey bootleggers.

"Beer and wine would re-enthrone the brewers of the dominating political powers in the nation, with resulting corruption such as was uncovered in Pittsburg and in Texas in the days when beer was legal.

"Beer and wine would restore the saloon in some form, and it would be as bad as the old institution, now universally condemned. Not even some new $25,000 Hearst prize names could change its nature.

"No plan, at whatever price it may have been obtained, will solve the liquor problem by any method that permits the manufacture and sale of habit-forming alcoholic liquor.

"So long as intoxicants intoxicate and civilization demands sobriety alcoholism must be prevented by observant and informed prohibition."

Perhaps the only commentary necessary on the McBride statement is that it faithfully represents, in its four "practically insurmountable barriers" the customarily presumptuous attitude of the Anti-Saloon League in disposing of the will or wishes of any elected Congress, of the Chief Executive, the Supreme Court, the State governments, and the people of the nation *in toto*.

Representative F. H. La Guardia, of New York:

"The winning plan suggests the idea of wine and beer that many of us have been advocating from the time that we fought the Volstead Act and voted against it to this very day. It is simply the wine and beer plan and nothing else.

"The plan suggesting wine and beer overlooks one very important factor, and that is that it gives no details as to the way of protecting dry States. In the light of the history and experience of the liquor problem, adequate protection must be given the dry States, because it was the infiltration of liquor into dry States which brought about prohibition as a national problem.

"As to the parliamentary situation in bringing about the change of law, it is entirely feasible—assuming that we have the votes in Congress to make the necessary legislative changes. We have always insisted that the enforcement law could be so modified as to permit the manufacture, sale and transportation of wine and beer without disturbing the constitutional provision—again assuming that we have the votes in the House and Senate to do so."

Senator Morris Sheppard of Texas, author of "The Eighteenth Amendment":

"I am fundamentally opposed to the plan of the prize-winning essay. It would not be practical. It would result in a return of the old conditions which brought about prohibition."

Franklin W. Ward, Adjutant General, State of New York:

"I am very much impressed with Judge Hoyt's temperance substitute for prohibition. While he was paid $25,000 as a prize, at the rate of $25 a word for his plan, if it is adopted by the country and proves practical, it will be worth millions."

Representative Schafer, of Wisconsin:

"The first prize plan can be supported, without apology, by all of those who believe in temperance, including the most rabid prohibitionists, who, if they are honest with themselves, must admit that a deplorable situation exists at the present time due to the sumptuary prohibition laws.

"William Randolph Hearst is to be commended for his patriotic purpose in launching the contest for a plan to cure the existing evil. The prize-winning plan, if enacted into law, in my judgment, will solve the problem and again inculcate in the hearts of the American people respect and obedience to law and order, and such a measure can be passed by Congress without fear of being construed as unconstitutional by the Supreme Court."

Joseph R. Hamlen, Boston, chairman Harvard Fund Council and president of *Harvard Alumni Bulletin*:

"Mr. Hearst is to be commended for the great service he has rendered the whole country. While I am opposed on principle to retaining the Eighteenth Amendment in the Constitution and believe eventually it will be repealed, I am in favor of supporting a plan such as Captain Therkildsen has suggested.

"In my opinion the principle of prohibition is unnatural and un-Christian and its results after ten years are just what might have been expected.

"Give Captain Therkildsen's plan a try and I am of the opinion that we will have taken a step forward in the matter of restoring the nation to a state of sobriety."

Judge Alfred H. Battle, president Seattle Bar Association:

"General Dalton has presented a very good outline plan for handling the entire proposition, but when he attempts to wholly exclude distilled beverages he would not meet the thought of a great many of the American people.

"The problem is not one of differentiation between intoxicating beverages, but the recognition of the personal liberty of the people regulated by proper and reasonable laws. Nevertheless, the Dalton plan is pleasing and workable, considerably more so than the Hoyt plan.

"The chief difficulty with the Hoyt plan is that he assumes a fermented beverage is not intoxicating liquor, which is a matter of legislative determination."

Jerome G. Kerwin, Professor of Political Science, University of Chicago:

"The main value of the Hearst Temperance Contest is that it brings to the people the fact that there are other ways to bring about temperance than by the Volstead law. To many people the words prohibition and Volstead were synonymous. This campaign of education will impress upon many that there are other pieces of legal machinery by which temperance can be achieved."

Frederick Arnold Kummer, Baltimore, noted Maryland author:

"I was struck by the simplicity and plausibility of the Hoyt plan. The plan, it seems to me, is the most ingenious and equitable procedure yet advanced in the interest of genuine temperance. Its sanity is clear and lucid.

"One of the sound features of the Hoyt idea is that the Volstead law, as it now stands in relation to beer and light wines, may be changed by the Congress without attempting to repeal the Eighteenth Amendment. There is assuredly a major distinction between liquors and drinks of lighter alcoholic content."

Pierre S. du Pont, chairman of the board of E. I. du Pont de Nemours Co., Wilmington, Del.:

"A new generation has been brought up to know nothing but strong drink. Will these citizens be satisfied with the offered wine and beer? I fear not. Nevertheless a step in the right direction is worth taking. We need not expect to remedy our past follies at the first trial but an acknowledgment of error is the best preliminary to its correction.

"The adoption of Justice Hoyt's plan would undoubtedly lead to the final satisfactory solution of the liquor problem and to the promotion of temperance in the United States."

Homer Albers, Dean of Boston University Law School:

"Any plan that looks at all promising is worth while, and for that reason I am not opposed to Judge Hoyt's plan. But I am not sure it goes far enough. For example, there might well be added to his plan government control of fermented liquors."

Frank S. Howell, Omaha, former Justice of the Nebraska Supreme Court:

"I have read the plan of Franklin Chase Hoyt with interest. I agree that the Eighteenth Amendment will not be abolished in this or the next generation, and perhaps not at all. I believe, however, that Congress has the power, within prescribed limits, to define intoxicating liquors. For that reason the Federal Government should correct existing conditions."

Rabbi Samuel Hirschberg, Temple Emanu-El, Milwaukee:

"I fully sympathize with the spirit of the movement to gain public expression on the prohibition question, but I am truly disappointed with the essay that has been chosen as the winner of the $25,000 prize.

"It offers no adequate solution to the grave problem of prohibition and comes far from my expectations as to the remedy that so great a move would uncover. I will continue to read the other essays with interest, hoping that they will offer something more concrete and much better."

Dr. Frank Eskridge, Atlanta, Ga., noted medical authority and criminologist:

"Justice Hoyt's plan appears to be an ideal solution if practicable. I think the Volstead act unquestionably must be amended to make the Hoyt plan generally operative, and it is just a question in my mind as to how readily Congress will respond.

"Anyone who knows the physical havoc wrought by the concoctions generally alluded to as bootleg liquor will agree

that some substitute plan should at least be given a trial. My opinion is that public sentiment favors the sale of beers and wines and having the Government put teeth in laws designed to stop the sale of spirituous liquors."

Rabbi Jacob Nieto, Temple Sherith Israel, San Francisco:

"The Hearst Temperance Prize Contest is the greatest service rendered to the American people in many years. I hope that one of the admirable plans which were awarded prizes in this contest will be adopted, and that it will lift the ban the Eighteenth Amendment placed on the American people and make them again temperate and law-abiding."

Judge A. D. Brandon, Morals Court, Pittsburgh:

"Judge Hoyt's plan is a step in the right direction. William Randolph Hearst and his papers are to be congratulated for their effort to lead the way to true temperance. No person acquainted with conditions will contend that the prohibition law is a success. It is up to the people with well-balanced minds, with patriotic aspirations, to find a solution.

"Judge Hoyt's contribution is worth careful consideration on the part of all members of Congress. We are facing a serious situation, just as serious as slavery was before the Civil War, and we need a second Lincoln to hit the moonshine traffic hard."

Senator D. Tydings of Maryland:

"The proposed plan of Justice Hoyt in the Hearst temperance contest as I understand it, does not bring back the saloon nor restore the legal sale of strong drink. Therefore it is in consonance with what in my judgment was sought to be obtained by the Eighteenth Amendment.

"And as a result, law and order would be improved greatly, as thousands of speakeasies and stills dotted all over the country would be closed and abandoned, and racketeering, with its train of murder and lawlessness, would be given a death blow."

Herman Russell, vice-president Rochester (N. Y.) Gas and Electric Corporation:

"I think Justice Hoyt's plan is the sanest, most sensible and practical solution of the problem of eliminating law-breaking. It is a workable substitution for the existing scheme of national prohibition and leaves the way open for Congress to clarify the situation. I heartily endorse the plan. It coincides with the views I have held for some time past.

"While this is the best of the plans submitted, Captain Therkildsen's proposition offers another commendable solution. Mr. Hearst is to be congratulated. The contest ought to do considerable good, and if it does no more than focus public attention on this great problem, Mr. Hearst's $33,000 in prizes will have been well spent."

From the *Congressional Record,* June 27, 1929

EXTENSION OF REMARKS

of

Hon. John C. Schafer

of Wisconsin

In the House of Representatives

June 19, 1929

Mr. Schafer of Wisconsin.—Mr. Speaker, I appreciate the courtesy extended by the House in granting my request for an extension of remarks on the prohibition question and the inclusion of the $25,000 prize-winning plan submitted by Hon. Franklin Chase Hoyt in the nation-wide contest sponsored by that sterling American citizen, Mr. William Randolph Hearst.

The operation of the existing prohibition laws has convinced Mr. Hearst that a liberalized modification of these

laws must be effected if the best interests of our Republic and its people are to be maintained. Each day's tragic news brings to the attention of the American people the failure of the existing prohibition laws. Under these sumptuary laws, rights guaranteed to our people under the Constitution have been flaunted and ignored, such as the right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures; and also that no person shall be deprived of life, liberty, or property without due process of law.

The excessive, wanton toll of human lives taken by Federal officers charged with enforcing prohibition laws, culminating in the assassination of Henry Virkula near International Falls, Minn., has even caused the citizens of the Republic to be fearful that their lives may be snuffed out at any time they traverse the highways.

Prohibition has failed in the open field and has reached the stage of guerilla warfare. In time of peace in a peaceful Nation it even violates the rules of war among the civilized nations of the world. The sniping of peaceful law-abiding American citizens from ambush by prohibition-enforcement agents parallels the atrocities of the most savage and uncivilized tribes in the history of the world.

Under the existing system the Federal killers are tried in Federal courts and defended by Federal officials notwithstanding the fact that the people desire a trial in the local courts where the cards are not stacked in advance for acquittal. A great majority of the American people—including some of the most zealous advocates of prohibition—have reached the realization that the Anti-Saloon League, which was mainly responsible for the enactment of the prohibition laws, should be held in disrepute. The hired men of this organization, receiving their bread and butter from a half-million-dollar subsidy of the notorious 5-and-10-cent store magnate, surely should be the last to convince decent, respecting American citizens that prohibition should continue, from a moral standpoint.

The plan which received the first prize in the Hearst nation-wide contest for the solution of the highly important prohibition question should be tried out. It cannot be denied that the consumption of distilled spirits created the situation which brought about the enactment of the existing prohibition laws.

This plan confirms the view, which I have repeatedly stated, that the immediate objective to overcome the deplorable situation caused by the prohibition laws was not the repeal or change of the Eighteenth Amendment but a reasonable and sensible amendment of the Volstead Act.

The first-prize plan can be supported, without apology, by all of those who believe in temperance, including the most rabid prohibitionists, who, if they are honest with themselves, must admit that a deplorable situation exists at the present time due to the sumptuary prohibition laws. William Randolph Hearst is to be commended for the patriotic purpose in launching the contest for a plan to cure the existing evil.

The prize-winning plan, if enacted into law, will solve the problem and again inculcate in the hearts of the American people respect and obedience to law and order, and such a measure can be passed by Congress without fear of being construed as unconstitutional by the Supreme Court.

When Congress reconvenes I shall introduce a bill carrying out the prohibition modification plan as embodied in the prize-winning plan in the Hearst contest, as I believe that a great majority of the American citizens favor this plan of modification as against the existing prohibition laws favored by the notorious 5-and-10-cent store magnate who has subsidized the Anti-Saloon League to the tune of half a million dollars.

I appreciate the sterling character and the high ideals of American citizenship as practiced and expounded by William Randolph Hearst and would rather be a private soldier in the ranks of his crusaders than a general in the ranks of the crusaders of the Anti-Saloon League.

President Hoover's Crime Investigating Commission is searching for a remedy for the present breakdown in law enforcement as the result of the unworkable prohibition laws. This commission should certainly give Justice Hoyt's plan its most careful consideration. The issue has gone beyond the question of prohibition. We are now faced with the problem of law enforcement and how to obtain respect for law. Justice Hoyt's plan points the way out.

(The full text of Justice Hoyt's plan is here appended.)

It is not strange that a contest which attracted such international interest should bring in its wake a number of human interest stories. Thus one contestant, although disqualified, nevertheless was given a special award of $1,000 for a plan whose full text appears in this chapter.

Thomas K. Salmon, cub reporter on the staff of the *New York American,* a Hearst publication, entered the contest, unaware of the fact that employees of the Hearst organization were barred from the competition. Salmon's concisely presented temperance plan was considered worthy of final examination by the judges of the contest. However, on the day the judges assembled, Salmon discovered that he was ineligible and immediately sent the following letter to the Temperance Contest Committee:

"In submitting my article, 'Temperance Without Prohibition,' I was not actuated solely by the desire to win a money prize. I also felt it offered an excellent opportunity to bring to the attention of a nation-wide audience a thoughtful and constructive plan to find a way out of the deplorable state of affairs that has resulted from the attempt to attain temperance through prohibition.

"Upon reflection I have concluded that in the event my plan received an award from the judges of the contest, my connection with the *New York American* would tend to cause unjustifiable criticism of the public-spirited purpose which Mr. Hearst had in mind in instituting the contest. In order to prevent any possibility of such an unfortunate oc-

currence, I respectfully withdraw my plan from the further consideration by the Temperance Contest Committee."

Salmon thus gracefully eliminated himself from the competition.

The Committee submitted this unusual angle of the contest to the attention of William Randolph Hearst, who telegraphed from California instructions to present Salmon with a check for $1,000.

Thomas Kingerlee Salmon, born in Brewster, N. Y. in 1900, is a resident of New York City. He was educated in the public schools of Boston and New York; at Loomis Institute, Windsor Conn., and is a graduate of Cornell University.

Prior to joining the staff of the *New York American* he served as American vice-consul at Cologne, Germany, later becoming associated with the Farmers' Loan and Trust Company of New York.

In 1926 he married Elizabeth Harris Sheldon, of Yonkers, N. Y., a graduate of Vassar.

Mr. Salmon's father, the late Thomas W. Salmon, was one of America's leading psychiatrists, director of the National Committee for Mental Hygiene, Brigadier General, U. S. A., head of the Psychiatric Division of the American Expeditionary Force, and was awarded the Distinguished Service Medal by Congress.

The Salmon plan is here appended:

The course of events will eventually make it necessary for the American people to decide between prohibition without temperance or temperance without prohibition. The plan outlined in this article is an attempt to show how the latter alternative may be achieved. In formulating the plan, consideration has been given to three fundamental questions: the legal issues involved in changing the prohibition laws. the method to be employed in bringing about a change, and the form of a substitute for prohibition.

As long as the Eighteenth Amendment remains in the Constitution in its present form, any attempt to liberalize the

provisions of the Volstead Act will be of doubtful constitutionality. Congress can alter the present definition of an intoxicating beverage; but any definition which excludes light wines and beer, beverages that are intoxicating in fact, will necessarily be held unconstitutional by the Supreme Court.

Nullification, which is favored by many opponents of prohibition, is a dangerous expedient that might easily lead to disastrous results. If the present enforcement acts were repealed, traffic in liquor would follow; but it would be an extra-legal traffic, entirely outside of the domain of law. Congress could not constitutionally enact regulations governing the manufacture and sale of intoxicating beverages, because that is prohibited by the Constitution. The absence of an enforcement act would produce far greater abuses than exist now.

The first step in any programme for securing a substitute for prohibition must be the modification of the Eighteenth Amendment; its repeal being practically impossible. Modification is possible, for it is almost axiomatic in politics that a positive proposal is often successful, where a negative proposal, with the same end in view, usually fails.

With the addition of the qualifying clause, "Except As Provided for by Regulations Prescribed by Congress," to the Eighteenth Amendment, there would be no constitutional obstacle to the enactment of a substitute for prohibition more in accord with enlightened public sentiment. Congress and the Supreme Court have tacitly recognized the principle embodied in such a clause by permitting the manufacture and sale of intoxicating beverages for medicinal and sacramental purposes.

There is no magic formula that can be invoked to bring about the modification of the Eighteenth Amendment as suggested in the foregoing paragraph. It is largely a question of practical politics, and will require considerable time, money and effort to accomplish it. Fortunately, the political strategy by which it may be accomplished has already been

worked out by the Anti-Saloon League, in its efforts to prevent any amelioration of the prohibition laws.

The method is successful and should be adopted by the anti-prohibitionists. It is based on the fact that in every voting district in the country there are two large groups of voters, one of which will vote the Republican ticket and the other the Democratic ticket, regardless of the qualifications of the candidates. The balance of power is, therefore, held by a numerically small group who will swing their votes to the candidate endorsed by the League.

To bring about the modification of the Eighteenth Amendment and the enactment of a sane substitute for prohibition, there should be formed in every voting district in the country a group of voters, pledged to support only Anti-Prohibition candidates for Congress and the State legislatures. The group in each district should be large enough to hold the balance of power.

A National Committee, with representatives from all sections of the country, should be formed to secure the enrollment of the groups of voters described in the preceding paragraph. Such a committee should also endeavor to coordinate the activities of the various organizations seeking modifications of the prohibition laws. It will also be necessary to continue the publicity against the evils of the present prohibition regime.

After the modification of the Eighteenth Amendment, the Volstead Act and other laws relating to prohibition should be repealed. A new Liquor Control Act should be enacted in their stead. Such an act should provide for the strict control of liquor by the Federal Government, and should embody the following provisions:

Manufacture of intoxicating beverages under permits issued by the Internal Revenue Department to reputable individuals or concerns.

Taxation on the manufacture of intoxicating beverages on the basis of alcoholic content.

Sale of intoxicating beverages to adults only by licensed liquor stores (but not for consumption on the premises), under licenses issued by the Internal Revenue Department to reputable individuals or concerns.

Sale of intoxicating beverages by hotels and restaurants (for consumption on the premises only), under licenses issued by the Internal Revenue Department to hotels and restaurants holding a permit from their local community to conduct such sales.

Importation of intoxicating beverages by licensed liquor stores, hotels and restaurants, and individuals (for their own consumption), when entry is made through regular customs channels, and a tax on the basis of alcoholic content, similar to that paid by domestic manufacturers, is paid, together with an import duty for protection against too severe foreign competition.

Imposition of suitable penalties for violations of the law.

Temperance, which will eventually be attained through education, has been greatly retarded in its growth under the present prohibition laws. Better actual temperance conditions would be secured under the substitute for prohibition outlined in this article. The ease in obtaining mild alcoholic beverages and the sliding scale of taxation on beverages of greater alcoholic content would tend to decrease the consumption of highly intoxicating beverages.

The plan also has several other advantages. Enforcement would be simpler, because of the smaller number of violations that would occur. Less encouragement would be offered to crime because the bootlegger and the speakeasy would cease to be national phenomena. Finally, it would mark the abandonment of the abortive policy of coercion that has outraged and violated the fundamental rights and personal liberties of American citizens.

CHAPTER XVII

THE CANADIAN SYSTEMS

CANADA gave prohibition a fair trial and found it failed to work. Various provinces, dismayed by increasing lawlessness and the inevitable increase in the use of beverages of high alcoholic content, faced the facts of prohibition's failure, and after careful consideration and appraisal, turned to the present government liquor control systems, which have proven enormously more advantageous than has prohibition.

These facts and many others of similar import and interest were brought out in the report of a commission which was sent to Canada by the Hearst newspapers.

In the course of the $25,000 Temperance Prize Contest, and at the invitation of William Randolph Hearst, the commission went to Canada to ascertain the facts concerning the operations of Provincial Liquor Control Boards in various parts of the Dominion.

Mr. Hearst chose a churchman and an educator to make the investigation.

One was Archdeacon Joseph H. Dodshon, president of the Church Temperance Society, an unofficial adjunct of the Protestant Episcopal Church in the United States, who was accompanied by Dr. H. H. Sheldon, head of the department of physics of New York University, a well-known economist and careful investigator.

The Rev. Dr. Dodshon, who was also one of the seven judges in the Hearst $25,000 Temperance Prize Contest, has had ten years' experience in investigating the entire subject of prohibition and temperance, and has made a deep study of the many angles involved.

The results of their inquiries are embodied in their report, which is subjoined.

Canada considers that respect for the whole fabric of the law is more important than the theoretical benefits of any particular law. Canada, in the opinion of the Hearst commissioners, made sure that the advantages of the so-called moral legislation were negligible as compared with the practical and substantial benefits accruing from universal respect and observance of all law.

At the close of the World War many of the Canadian provinces turned to the experiment of prohibition. After its adoption popular disapproval, increasing lawlessness and the absence of the benefits promised by the supporters of prohibition were soon evident. Allowing for a suitable experimental period to elapse, a survey was made on the basis of actual government figures.

Canada found that under prohibition lawlessness and the number of arrests increased steadily; convictions for drunkenness increased regularly, and the consumption of hard liquor showed alarming gains. While avowedly dry rural communities continued to be law-abiding, the urban centers, where public sentiment was against prohibition, became centers of the illegal traffic and its inevitable corruption and law-breaking.

When these conditions became apparent public opinion forced a change. Varied systems of provincial liquor control were adopted and these have been improved and amended to meet conditions.

The Hearst commission's report shows that governmental liquor control, under these various systems, has resulted in decreases in lawlessness, drunkenness, and the consumption of hard liquor.

Government figures show over a period of seven years of government liquor control that there was a 50 per cent decrease in arrests for all causes; a 60 per cent decrease in the number of convictions for drunkenness, and a gradual

decrease in the consumption of hard liquor with an accompanying increase in the consumption of light wines and beer. Corresponding economic gains are also evident, the Hearst commission's survey shows. A definite decline in the use of narcotics is also evident.

The survey furnishes ample substantiation of the opinions expressed in tens of thousands of plans entered in the Temperance Contest. The commission visited Quebec, Montreal, Toronto, and other cities and interviewed many officials and other persons who were in a position to give accurate information. Its report follows:

There has been much contemporary argument, insofar as the liquor problem is concerned, as to whether a system of control, such as that in Quebec, makes for greater temperance. While it would seem at first glance that this must be a difficult, if not impossible, question to answer, there is, nevertheless, available data which pretty well settles the matter.

It must be agreed that official figures on consumption per capita of liquors and on arrests for drunkenness are the two factors of greatest importance in this connection. These figures speak rather forcibly for themselves.

Let us take the case of Montreal. For this city the arrests for drunkenness from 1914 to 1927 have been checked by your committee from official Government reports and found to be correct.

They err only in being too conservative in their estimate of population increase since 1921, in which year the liquor control system took effect. The population increase is based on that of the previous ten years which covered the war period. Growth of Montreal has been much more rapid in the last few years.

The table below indicates forcibly that Government control in Montreal has been followed by an increased and continued moderation in drinking, and a steady decrease in drunkenness. Minus the hard-drink tourist element from the dry United States, the trend would certainly be even more apparent.

BEFORE LIQUOR CONTROL.

Year	Estimated Population.	Arrests.	Rate per 10,000
1914	528,904	8,323	157.3
1915	541,705	5,479	101.1
1916	554,504	4,407	79.5
1917	567,304	5,353	94.3
1918	580,104	4,498	77.5
1919	592,904	6,693	112.8
1920	605,704	7,608	125.6

AFTER LIQUOR CONTROL.

1921	*618,506	6,363	†102.9
1922	631,306	4,356	69.1
1923	644,106	3,761	58.4
1924	656,906	3,923	59.7
1925	669,706	4,163	62.2
1926	682,506	3,940	57.7
1927	695,306	4,665	67.1

* Actual population.
† Liquor Control Act took effect May 1, 1921.

Continuing the table over the first six months of 1928 and on the same basis of population increase we should have:

1928 (first six months)—708,106...1661...23.5 for the first half, or 47 for the year.

As the first six months of 1927 was higher than the last six, this would indicate that the figure 47 for the year 1928 was too high.

If now we estimate the population of a more nearly correct value, a value given by G. E. Marquis, Chief of the Bureau of Statistics for the Province of Quebec, we must take the population of Montreal as nearer 1,000,000. This would give 1928 (first six months)—1,000,000...1661... 33 (for the year).

The year 1927 would show a similar decrease. The appar-

ent slight increase for 1927 is really a decrease when the fair value for increased population is used. Also it should be noted that the attitude in Quebec is that the offense is *not in drinking*—but in *getting intoxicated*. The police are quick to arrest a drunken man.

One cannot fail to note the number of arrests for drunkenness in Quebec during the prohibition year 1920. This number was 125.6 per 10,000 as opposed to an estimate of 33 per 10,000 in 1928. Also it should be noted that the last figure includes about one-third foreigners, mainly American tourists in Canada.

Unfortunately the number of foreign visitors arrested for drunkenness in 1920 is not available, but presumably comparatively few Americans were attracted to Quebec during the prohibition period there. It would appear that in the city of Montreal the liquor control system has been successful in increasing temperance.

Let us now look at the Province of Quebec as a whole. If we take the figures up to and including 1926 as given in the same pamphlet referred to above we find a steady decrease. These figures have been checked by your committee and furnish additional evidence of the growing trend toward moderate drinking by Canadians under the Government control system.

Year.	Estimated Population (*Canada Year Book*)	Convictions for Drunkenness (*Canada Year Book*)	Rate for 10,000 Population.
1920	2,324,429	11,863	51.30
1921	*2,361,199	9,944	42.11
1922	2,400,099	7,103	29.59
1923	2,439,000	6,260	25.66
1924	2,480,000	6,146	24.78
1925	2,520,000	6,342	25.16
1926	2,561,800	5,364	20.93

* Actual Canadian Census.

They also offer additional indication of the high percentage of arrests for drunkenness among tourists from the dry United States, in that the figures from the rural sections, unfrequented by tourists, bring down the percentage of arrests in the province as a whole, and in contrast to those of the city of Montreal very considerably.

If we add the values for 1927 as found by your committee we arrive at:

1927	2,596,800	7,000	27.00

As the value 2,596,800 is too low, according to the chief of the Bureau of Statistics, we shall use his figure, 2,900,000. This gives:

1927	2,900,000	7,000	24.14

While this reduces the figure somewhat, it is still higher than the year previous. It is the opinion of the Quebec Liquor Commission that this record is largely due to the increasing influx of summer tourists. While the average is about one-third foreigners among arrests for drunkenness, it frequently exceeds this greatly and in one month, July, 1927, stood at: Canadians, 230; foreigners, 191.

In other words, the ratio was all out of proportion to what might be expected, particularly so when it is realized that every effort is made to encourage tourist travel and that the tourist is everywhere greeted with courtesy.

It is obvious that the arrests are greatly reduced below those of the prohibition period, that there is a decreasing amount of drunkenness which, even without allowance for extraneous factors, shows a falling curve. Although there are occasional rises these are quickly made up and the curve continues its general downward slope. They appear to be but minor fluctuations. And this is in spite of the attitude of intolerance taken against drunkenness on the part of the police. It is not due to laxity.

Let us next consider the question of consumption of liquors. Again the table given by "The Quebec System,"

previously referred to, will serve as a convenient starting point.

Checking the consumption of beers, wines and liquors as shown below against the tables on drunkenness above, and subtracting the acknowledged large percentage of liquors purchased for illegal distribution in the United States, we have additional and substantiated indications that government control is a successful and logical answer to the problem of prohibition. The decrease in the consumption of wines and beers adds materially to the picture.

Your committee is in agreement with this table, except that for the year 1927 it would substitute 1926-1927, as the table is for the year ending June, 1927.

Year.	Gallons of Spirits. Total.	Per capita.	Gallons of Wine. Total.	Per capita.	Gallons of Beer. Total.	Per capita.
1922	.....	..	.....	..	22,563,008	9.40
1923	.....	..	.....	..	22,783,770	9.34
1924	775,991	.31	627,942	.25	26,228,488	10.57
1925	718,053	.28	716,025	.28	27,228,623	10.70
1926	743,817	.29	884,394	.36	26,521,327	10.35
1927	869,132	.33	1,181,219	.41	26,924,497	10.34

		Gals.	Per capita.
1927-28	Spirits	910,873	.35
	Wine	1,433,878	.55
	Beer	28,184,175*	10.80

* Estimated from manufacture, imports and exports. The other figures are directly from government statistics.

These figures are based on minimum values for the population and so the consumption per capita is somewhat too high.

When the figures are corrected for population the value is .31 for spirits. This shows that there is either an increase

or the amount is at least stationary. There is an increase in the consumption of wines and beers.

It is the avowed policy of the liquor commission to increase the use of beers and wines and to diminish the sale of spirits. This they are apparently doing, for when one considers that the hard liquors are the only kind purchased by American bootleggers it is evident that the actual consumption in Quebec of spirits is in reality falling off. It is regrettable that this factor is unknown, for if it could be included it is the opinion of your commission that the figures could be much more favorable to Quebec than they now are.

One of the most remarkable achievements in Canada under the present liquor system has been the great decrease in the use of narcotic drugs. Take the Province of Quebec for an example. In 1926 forty-five males and twenty-eight females were convicted for frequenting an opium resort and smoking opium. In 1927 this number was twenty-one males and no females. For selling narcotic drugs, twenty-two males and three females. The next year only nine males and no females.

For possessing narcotic drugs in 1926 there were 161 males convicted and twelve females. In 1927 this was reduced to sixty males and no females. Total 228 in 1926 and ninety in 1927. Total female arrests, twenty-three in 1926 and none in 1927. This proves pretty conclusively that where people have their light wines and beer or liquor the desire for drugs is negligible.

Province of Quebec, drugs.	1926		1927	
	M.	F.	M.	F.
Frequenting smoking places.....	45	8	21	0
Selling narcotic drugs.....	22	3	9	0
Possessing narcotic drugs.....	161	12	60	0
Totals	228	23	90	0

From 1920 to 1926, inclusively, convictions for drunken-

ness in the Province of Quebec have suffered a constant and very marked decrease—namely, over 50 per cent during these seven years, or 11,863 in 1920 to 5,364 in 1926. A sudden rise occurred, however, in 1927, and the reason given for this is the great influx of visitors during the summer months.

For instance, in Montreal for the first six months of the year 1926 there were 1651 arrests for drunkenness, of which 1,218 were of Canadians and 443 were foreigners, which proves that were it not for the summer visitors the total arrests for drunkenness would be reduced about a third. In the Port of Quebec the total convictions for offenses against liquor acts in 1926 were 2,104 and in 1927 2,025.

Quebec, like most of the Canadian provinces, has had a varied experience in leading with liquor officially. Under the Canadian Temperance Act, there existed for many years, and still exists, the possibility of local option. In Quebec more than half of the population was dry under this system in 1919. Four-fifths of the municipalities had declared for dryness.

Following the lead offered on all sides, the province voted for complete prohibition at this period, to take effect May 1, 1919. Before this time, however, a referendum was passed which permitted the sale of light wines and beers. This system was so unsatisfactory that it was terminated on May 1, 1921, and the present system, Government control, instituted in its stead.

The liquor situation in Quebec is now in the hands of a commission appointed by the Lieutenant-Governor. This commission, which consists of five men, controls the possession, sales, distribution, importation, etc., of all liquors. It operates in a manner which resembles, in all respects, that which would be used by a private monopoly. The profits of the system, however, accrue to the Provincial Government. All employees are salaried. No one is employed who has any investment in any enterprise connected with the liquor business.

The wholesale trade is handled directly by the employees of the commission as is the retail trade in so far as hard liquors are concerned. Vendors of beers and wines are licensed by the commission and are held under strict observance by a system of inspection under the commission. A special police force is maintained to check illegal sales, manufacture, etc., of liquors.

It is the intention of the commission to promote temperance in every possible way. It is made difficult to obtain liquors in proportion to their intoxicating effects. Beer is accordingly sold almost without restraint, whereas hard liquors are only obtainable at the commission's own stores, one bottle at a time. Of course it must be remembered that local option prevails in the Province of Quebec. In the rural districts especially, there are many supposedly dry spots.

In the larger cities there is a central warehouse which supplies the government liquor stores located in various sections of the city. These stores sell only liquors, and have the appearance and air of a post-office or bank. The liquors are not on view but are kept in a room behind the office. Bottles are on shelves like goods in a department store.

The greatest weakness of this system is the fact that the customer is only supposed to buy one bottle of liquor, but in reality he may enter the store several times a day and buy each time.

A bootlegger can get ample supplies in half a day. In addition he can hire persons to go into these stores, each purchasing a bottle at a time. This is the main source of supply for the American bootlegger and where he obtains his supply of high-grade liquor for smuggling. A feature of these stores is that if a customer desires to procure a particular brand he makes use of what is called a "testing system," so that he may be certain to secure the article desired.

The employees do not own the building, nor its contents, but are paid a straight salary by the Liquor Commission and, of course, there is no inducement for them to sell as much as possible, nor to keep open after hours.

In addition to the government stores for the sale of liquor the Province of Quebec has a system of taverns for the sale of beer only, and these are generally called poor man's clubs. There is no drinking at bars, but patrons are seated at tables.

The Hearst Commission visited taverns in the best quarters and hotels, and also in the poorer parts of Montreal, and was surprised to find them all clean and well managed.

The rich man, of course, has his club where he can visit with his friends and enjoy his beverages, and the working man now has his tavern which serves the same purpose. The laws regulating these taverns are strict. The holder of a license or permit is careful to live up to the full letter of the law, as there is always a waiting list of persons seeking permits.

It may be interesting to note a few of these regulations. Every tavern must be provided with sufficient ventilation, the number of ventilators and windows depending upon the size of the room. Wherever necessary, mechanical ventilators must be used.

The premises must be provided with a waterproof floor of tile or terrazzo. If the building is an old one and the floor is of wood it must be covered with linoleum of good quality, the joints of which shall be cemented. In every case the floors shall be carefully cleaned every day, either with soap or lye.

A lavatory of suitable dimensions must be provided in every tavern. This room must be separated from the tavern itself by a solid wall reaching from floor to ceiling. There are at least a dozen regulations regarding the lavatory, including electric light and a ventilating fan. Beer drinkers will relish the following:

"It is forbidden to collect and serve the froth from the glasses or the drippings from the taps."

Music, singing, dancing, boxing, exhibitions of magic, hypnotism or wrestling are forbidden in taverns.

Hotels, restaurants and other dining places are permitted, under certain circumstances, to sell wine and beer. This is,

in all cases, under the provision that such beverages shall be sold only with meals. Just what constitutes a meal is not stated.

Questioned on this point one of the commissioners said that it was often asked by the proprietors themselves. The usual answer is to the effect that it is left to the proprietor's discretion, and if he errs on the wrong side he will be quickly informed. The provision, according to this committee's observations, seems properly carried out.

There is a difference as to the privileges given to hotels and restaurants. Both are permitted to sell from 8 a. m. to 10 p. m. on ordinary days. Hotels are permitted to sell from 12 m. to 10 p. m. on Sundays and holidays. Steamboats, clubs and dining cars are treated as restaurants. A hotel must consist of at least fifty rooms and meet other conditions of accommodation. A minimum wine list must be carried for the convenience of patrons, even where the traffic is not large.

It is the intention of the system to encourage hotels, by their support, so that the tourist may stop at the most convenient wayside inn with the same expectation of good service as he would look for at the best city hotels. The hotels are inclined to coöperate in every possible way.

It is interesting to note that at the season when your commission visited the province, when the tourist season was at a low ebb, the drinking of liquor in hotels and dining cars was decidedly the exception and not the rule. In one case observed, but one out of thirty diners had wine, and in a nearly filled dining car no liquor of any description was in evidence.

Grocers are permitted to sell beer only, and may deliver to the home by the case.

Strange though it may seem in a land where liquors are sold, as in Quebec, there is still the problem of bootlegging and "blind pigs." It would appear that there would be little business for these vendors. The reasons, however, are apparent upon a little consideration.

Consider first the sparsely settled regions away from the waterfront of the province. In these regions the liquor stores must, for economical reasons, be sometimes a hundred miles or so apart. Roads are difficult in winter and the one-bottle rule holds. Because of the Dominion tax, prices are high. The bootlegger is thus able to peddle his illegally distilled inferior brands, on which no government tax has been paid, and make a profit.

There is some agitation to reduce the Government tax to compete with this problem, but others think that the use of the present or a higher tax to fight the evil is more likely to produce results. The bootlegger is difficult to catch, however, for by the time he has been reported, even though an airplane were sent to apprehend him, it would be useless.

The blind pig and night club, on the other hand, are the product of the city. It is believed that they are the outcome of the early closing laws. After theatre hours there is no place where a lunch or dinner with wine or beer can be obtained. Only recently the closing hours of taverns have been extended to 11 o'clock in an attempt to combat this difficulty. After much conference with authorities it was the opinion of this committee that this limitation should be extended to 11:30 or midnight if it was to meet the theatre situation.

In addition a law has been passed which makes it illegal to be found in a place selling liquor beyond the closing hour or without a license. The following from the *Montreal Gazette* of April 19, 1929, gives an idea of the extent of this problem:

> "The syndicate movement in the local speak-easy industry is gaining momentum rapidly. Hard upon the news that the Big Fifteen—the élite of the 'pigs'—had organized the first syndicate to combat the anti-frequenters law, comes word that another and more inclusive syndicate is being formed in the eastern section of the city.
>
> "Application of the new amended anti-frequenters law, making arrests of patrons in 'blind pigs' without warrants legal, has thrown a disturbing scare into the camp of the

illegal sellers. A raid in which fifty customers were arrested last Saturday and had to pay $17.95 each in court has served as a warning to those interested that hard times are ahead. Police have issued their ultimatum to the effect that their campaign against 'speak-easies' will be 'unto death,' and Judge Monet has stated that severity may be expected from the courts.

"Since plenty of money is available for this campaign from the liquor tax, it should be possible to clean up the situation now that a genuine attempt is being made."

The Ontario system of liquor control differs in the main from the Quebec system in that liquor is sold only by the commission's own stores to holders of permits. This means that there is no sale of beer by groceries or taverns and that there is no sale of wines or beers with meals in hotels or restaurants.

The purpose of the issuance of permits is to keep some check on the amount of liquor purchased by the holder. Each purchase is recorded in a book, which must be presented when the purchase is made. It would appear that in this way the government has a record of the liquor bought by each individual. Actually, however, there seems to be little attention given to it.

The record is made as a matter of routine by the clerk, and at the end of the year a new book is issued, and the consumer may do as he chooses with the old one. Permits cost two dollars a year for residents, and transients are given thirty-day permits for the same sum. These may be renewed for fifty cents.

The only advantage of the permit system appears to be to make it more difficult for the American bootlegger to obtain a supply. In Quebec he can load his truck even if he can purchase but one bottle at a time. While in Ontario a whole case can be purchased and will be delivered to your home, the purchase of a large number of cases obviously intended for export would perhaps not be permitted. From the point of view of the residents of the province there seems to be

but little advantage in the permit system. It would appear that its main purpose was to increase the revenue.

Your commission interviewed a great many people during this investigation.

In the city of Quebec we met Mr. Leo Cote, commissioner of liquor control, and he seemed well pleased with the present system, although he was the only person interviewed in Quebec who did not favor the taverns.

However, Mr. E. S. Bigonet, deputy chief of police, who was born in the city of Quebec, said that the present system, including the taverns, was the best in his estimation they had ever had, and that for one he would be sorry to see it changed. For instance, he said, the police force numbers only a little more than one hundred, and this force has a rather easy time. There has been but one murder case in five years, and drunkenness and crime are at a minimum.

In Montreal the first persons interviewed were Mr. Gigueve, Secretary to the Liquor Commission, and Mr. Arthur St. Pierre, Assistant Secretary. We met at a luncheon two members of the Quebec League against Alcoholism, including the president of the society, the Rev. W. Saunders.

They take about the same position that our radical prohibitionists do, but the chief ground of complaint against the Quebec system was that the Government made several millions a year profit from the sale of liquor. Your commission believes that a poor argument. It is more acceptable that the government produce revenues than that the bootlegger get it all as in the United States, where taxpayers pay out huge sums annually for enforcement which does not enforce.

We were surprised to hear from the Lord Bishop of Montreal, the Rev. John Farthing, D. D., that as long ago as 1905 he had advocated Government control as opposed to prohibition. The Bishop stated that conditions under the present system are far beyond prohibition days and the days of the licensed saloon. There is less destructiveness, less crime, less drinking of hard liquors, and the people generally seem quite satisfied.

We later interviewed Mr. Norman Dawes, president of the National Breweries, Ltd., and Canon Shatford, Rector of St. James Church, who was also a chaplain in France. Both gentlemen take the same position as the Bishop of Montreal in regard to the results of Government control.

In Ottawa we interviewed the Under Secretary of State and Mr. S. A. Cudmore of the Dominion Bureau of Statistics. We afterwards visited the Liquor Control warehouse of Eastern Ontario and met the manager, Mr. Daniel Beaton. These gentlemen gave us much valuable information and furnished us with official statistics and the annual Year Book, containing complete reports of the various systems in all the provinces of the Dominion.

In Toronto we met Sir Henry Drayton, chief of the Liquor Control Board of Ontario. He has had large wall maps prepared, showing areas of Ontario dry under local option and showing at a glance the location of districts where the Ontario Permit System was in use under license by the government. He seemed to like the Ontario system of control much better than that of Quebec.

The Rev. W. W. Peck, secretary of the Ontario Prohibition Union, is naturally opposed to any system at all. His viewpoint is that of our prohibition friends in America, especially that of the Anti-Saloon League.

Commissioner Maxwell and Colonel Henry, two of the heads of the Salvation Army, were much more reasonable and informed us that in Toronto there was very little drunkenness, if any, and practically no solicitation by women on the streets. They are able to arrive at these conclusions through the reports of their social workers.

Several workingmen with whom we talked did not like this system, calling it class legislation. They claimed the rich man had his club where he could meet his friends and have a drink, while the workingman had no place to go. They seemed to prefer the Quebec system because it provided taverns which were open until 11 p. m. and which are similar to the poor man's club. The taverns must not be confused

with the old-fashioned saloon, as this report has already explained.

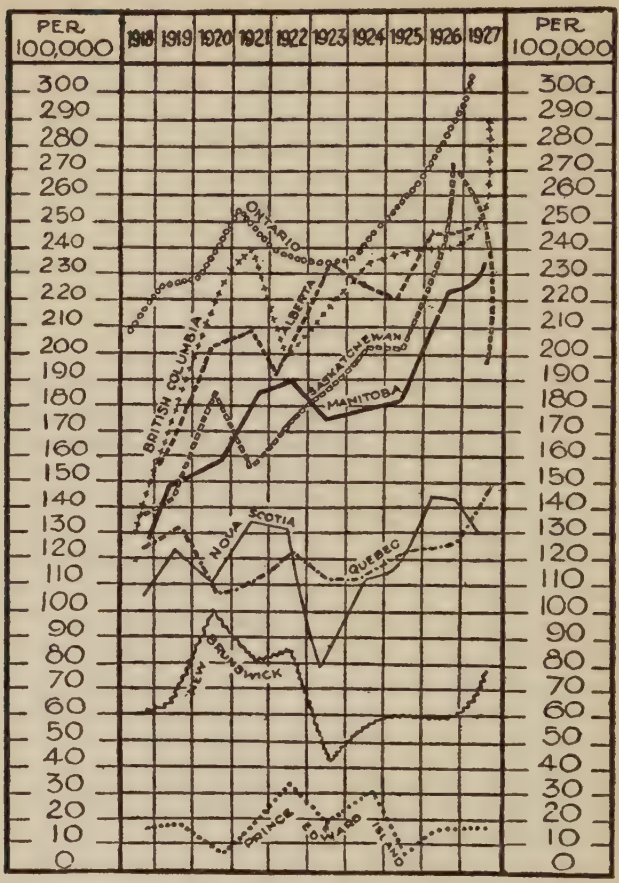
An interview with two Toronto doctors brought out some interesting facts. According to one, Dr. A. McCallum, the prohibition period before the present liquor control system was put in force was a profitable one for unscrupulous doctors. Some physicians wrote as many as 1,200 prescriptions per month, making their headquarters at drug stores for the convenience of patrons. The fee was one dollar.

Eventually the number of prescriptions which could be issued per month was cut down to 500, then 100, then to thirty. At this point prescriptions sold in some cases for as much as fifteen dollars. This, Dr. McCallum said, made the doctor's position difficult, particularly at Christmas and holiday periods. He felt he had lost clients by refusing permits which he did not have to give, a situation which the client did not seem to understand. He felt that the government had no right to throw the burden of enforcement on the medical profession.

Dr. H. A. Pelton felt that, while the prohibition system was not satisfactory, there was less liquor consumed than under the present system of government control.

There has been the frequent accusation that the public and legalized sale of alcoholic beverages leads to all sorts of crimes. The country or state which sells liquor most freely should then show the greatest number of offenses against the law. The graph on the following page taken from the seventh annual report of the Quebec Liquor Commission is instructive in this respect.

Almost coincident with the curve for Quebec runs the curve for Nova Scotia, the only dry province in the entire dominion. Below these two there appear only New Brunswick and Prince Edward Island. The latter can be considered almost as a small agricultural community, and the nature of the population of New Brunswick is such that no large amount of crime could be expected. There is no urban or "city" population, as in New York or Montreal.



This graph from the annual report of the Quebec Liquor Commission shows that Quebec, with the most liberal liquor control laws, has as few convictions as does Nova Scotia, the only dry province in the entire dominion.

All other provinces which run high above Quebec have some kind of liquor control, which may properly be considered partial prohibition when compared to the Quebec system. The record of Quebec is an enviable one.

There is no better proof of the success of any system than that it has been generally approved by the people whom it affects. Any locality in Quebec has it within its power to become dry by local option under a Federal law. Let us see what use they have made of the opportunity.

The following table shows the number of municipalities which voted in favor of a prohibition by-law, beginning with the Control act in 1921:

1921-22	43
1922-23	8
1923-24	6
1924-25	3
1925-26	1
1926-27	1
1927-28	1

The following table shows the number for each year which repealed the by-law:

1921-22	7
1922-23	12
1923-24	24
1924-25	10
1925-26	10
1926-27	6
1927-28	9

It will be seen that the maximum of repeals came a few years after the control system was put into operation and when time enough had passed to observe its workings. It will be noticed that the number of repeals is still large in spite of a constantly diminishing number of dry municipali-

ties which have any by-law to repeal. The number voting in favor of a by-law is negligible at present.

It is also notable that there is no organization against the present system worthy of consideration. The League for Control of Alcoholism in Montreal has had a varied career and at the present time may be said to be practically non-existent. The people of the province are satisfied.

In the matter of taxation the people of Quebec have been relieved of a considerable financial burden. The following table shows the total revenue for Quebec and also the sum turned over to the provincial government each year by the liquor commission.

	Total Revenue (*Canada Year Book*).	Revenue from Liquor Com. (Com. Report).
1922	$21,609,396	$3,892,398
1923	21,634,642	4,369,875
1924	23,170,733	4,200,596
1925	25,021,329	5,000,967
1926	27,206,335	5,747,332
1927	.....	6,028,302
1928	.....	6,500,000

It should also be noted that the operating expense of the commission includes a police force for enforcement so that the province has no enforcement costs to bear. This is an additional tax relief which does not appear in the figures.

The men in charge of the commission have always been of the highest type. The first president, who held the office for two years, retired with the greatest honor, having established the commission through its first two and most difficult years of operation. He was succeeded by L. B. Cordeau, who still holds the office and who is regarded with the greatest admiration and respect in Quebec.

Figures from official reports from the United States and Canadian Governments offer an interesting comparison of

the death rates per 100,000 population from various causes, for the year 1927:

	Can. Under Gov't Liquor Control	U. S. Under Prohibition
Deaths from alcoholism	2	4.1
Blood disease	4	8.4
Suicides	8	13.3
Homicides	1	8.7
Automobile accidents	9	19.5
Diabetes	11	17.5
Bright's disease	55	92.4
Cancer	83	95.6
Heart disease	124	195.7
Totals	297	455.2

CHAPTER XVIII

THE PRESIDENTS AND PROHIBITION

THE views of recent presidents, Taft, Wilson, Harding, Coolidge, so frequently quoted by participants in the Temperance Contest, are of commanding interest.

A most forceful denunciation of the type of legislation represented by the Eighteenth Amendment is contained in two open letters by Chief Justice Taft of the United States Supreme Court, written in 1918 before the final ratification of that amendment had been made, and before Justice Taft's own appointment to the Supreme Bench.

Because Mr. Taft's prophetic exposition is so explicit, so comprehensive, and has been so thoroughly vindicated by the events of the last ten years, it is quoted at some length:

"NEW HAVEN, Conn., June 8, 1918.

"My dear Mr. Lincoln: I am opposed to National Prohibition. I am opposed to it because I think it is a mixing of the National Government in a matter that should be one of local settlement. I think sumptuary laws are matters for parochial adjustment. I think it will vest in the National Government, and those who administer it, so great a power as to be dangerous in political matters.

"I am opposed to the presence of laws on the statute book that cannot be enforced and as such demoralize the enforcement of all laws. If I were in a local community in which I thought Prohibition could be enforced I would vote for it. If not, I would favor a high license, but I am not in favor of a national amendment which should force twelve of fifteen great States into a sumptuary system which the public opinion and the real practices of the people of those States would

"FOR GOD'S SAKE HELP US!"

(Message from citizens of International Falls, Minn., to President Hoover.)

not support. I think it is most unwise to fasten upon the United States a prohibitory system under the excitement of the war, which I do not hesitate to say every sensible supporter of Prohibition in the end will regret.

"Let the States which wish to do so prohibit. They have every means now of enforcing Prohibition. There is a Federal law, sustained as constitutional, which forbids the importation into them of liquor from other States and the whole field is open to State legislation and its enforcement."

The second letter follows:

"Pointe au Pic, P. Q., Canada, Sept. 2, 1918.

"A National Prohibition Amendment to the Federal Constitution will be adopted against the views and practices of a majority of the people in many of the large cities and in one-fourth or less of the States. The business of manufacturing alcohol, liquor and beer will go out of the hands of law-abiding members of the community, and will be transferred to the quasi-criminal class. In the communities where the majority will not sympathize with a Federal law's restrictions large numbers of Federal officers will be needed for its enforcement. The central Government now has very wide war powers. When peace comes these must end, if the republic is to be preserved.

"If, however, a partisan political head of the Internal Revenue Department, or of a separate department created for the purpose, shall always be able through Federal detectives and policemen to reach into every hamlet, and to every ward, and to every purlieu of a large city, and use the leverage of an intermittently lax and strict enforcement of the law against would-be dealers in liquor and their patrons, he will wield a sinister power, prospect of which should make anxious the friends of free constitutional government.

" 'A new broom sweeps clean.' A temporary National Prohibition Law as a war measure may be effective. It is urged to stimulate war production in the emergency, and to take temptation from our soldiers, though it is doubtful whether

the serious loss to the national revenues, which it will entail, may not outweigh the actual benefits. The immediately useful operation of such a law, or of a new State Prohibition Law, is not convincing evidence of its ultimate tendency and result. The community must summer and winter it for years.

"After the law-abiding members of the business go out of the business and a complete readjustment follows, the pressure for violation and lax execution in communities where the law is not popular will be constant and increasing. The reaching out of the great central power to brush the door-steps of local communities, far removed geographically and politically from Washington, will be irritating in such States and communities, and will be a strain upon the bond of the National Union. It will produce variation in the enforcement of the law. There will be loose administration in spots all over the United States and a politically inclined National Administration will be strongly tempted to acquiesce in such a condition. Elections will continuously turn on the rigid or languid execution of the Liquor Law, as they do now in Prohibition States. The ever-present issue will confuse and prevent clear and clean-cut popular decisions on the most important national questions, and the politics of the Nation will be demoralized as the politics of States have been through this cause. The issue will never be settled.

"The theory that the National Government can enforce any law will yield to the stubborn circumstances, and a Federal law will become as much a subject of contempt and ridicule in some parts of the Nation as laws of this kind have been in some States. We are acting now under the heroic impulse of a war, which stirs our feelings and makes us think we can have a millennium of virtue and self-sacrifice for the future. This is a fundamental error. I profoundly deprecate having our constitutional structure seriously amended by a feverish enthusiasm, which will abate to neglect and laxity in many States as the years go on. If through the abnormal psychology of war the thirty-six States are induced to approve a National Prohibition Amendment now, we can never change

it, though a great majority of the people may come later to see its utter failure. Thirteen Prohibition States can always be counted on to prevent a retracting of the foolish step. We shall thus hang a permanent millstone around our necks.

"Individual self-restraint, the influence of improved social standards and criticism, and the restrictions enforced by employers of labor for industrial reasons, have probably had more to do with moderating the evils of intoxication than statute law.

"The demoralizing political power which saloonkeepers and liquor manufacturers sought and wielded to protect their business from proper regulation and the defiance they bid to reasonable public opinion, roused the just indignation of the electorate. Many have voted and now vote for Prohibition merely to destroy the power of the saloon in politics without regard to any other consideration. The saloonkeepers taught the Anti-Saloon League how to fight and the latter has learned the lesson well and applied it, and often without any more scruple as to the method or means that it teaches. The liquor dealer thus is 'hoist with his own petard.'

"An intensively active minority in favor of adopting an unwise policy may win through the failure of the members of the majority, though opposed to the policy, publicly to declare themselves and to take the trouble to give effect to their opinions by their votes. A minority like this, conceiving that it is moved by a moral issue, loses its sense of proportion and sacrifices other issues, no matter how vital to the Nation. Such minority visits with its condign punishment all public servants who oppose it on this issue, however useful to the State they may be. I would not impeach the high-minded motives of the great body of those who support National Prohibition. It does awaken one's protest, however, to note the manner in which the ordinary type of politician becomes a Prohibitionist because he fears the balance of power that an active political minority may wield against his political fortunes. In the past he may have been subservient to the liquor dealers, in the present his practices may completely refute

the sincerity of the principles he advocated, but he, and men of his ilk, would recklessly and selfishly hurry us into an irretrievable national blunder.

"The regulation of the sale and use of intoxicating liquor should be retained by the States. They can experiment and improve. They have full power, and the Federal Government has helped them by making it a Federal offense to import liquor into their borders, if they forbid it. If the power of regulation is irrevocably committed to the general Government the next generation will live deeply to regret it.

"For these reasons, therefore, first, because a permanent National Liquor Law in many communities will prove unenforceable for lack of local public sympathy; second, because attempted enforcement will require an enormous force of Federal policemen and detectives, giving undue power to a sinister and partisan subordinate of the National Administration, and third, because it means an unwise structural change in the relations between the people of the States and the central government and a strain to the integrity of the Union, I am opposed to a National Prohibition Amendment.

Sincerely yours,

WILLIAM H. TAFT.

It may be interesting at this point to consider the reasoning which prompted President Wilson's veto of the Volstead Act. On October 27th, 1919 Wilson addressed the House of Representatives:

"I am returning, without my signature, H. R. 6810, 'an act to prohibit intoxicating beverages, and to regulate the manufacture, production, use, and sale of highproof spirits for other than beverage purposes, and to insure an ample supply of alcohol and promote its use in scientific research and in the development of fuel, dye and other lawful industries.'

"The subject matter treated in this measure deals with two distinct phases of the prohibition legislation. One part of the act under consideration seeks to enforce wartime pro-

hibition. The other provides for the enforcement which was made necessary by the adoption of the constitutional amendment. I object to and cannot approve that part of this legislation with reference to wartime prohibition. It has to do with the enforcement of an act which was passed by reason of the emergencies of the war and whose objects have been satisfied in the demobilization of the army and navy, and whose repeal I have already sought at the hands of Congress. Where the purposes of particular legislation arising out of war emergency have been satisfied, sound public policy makes clear the reason and necessity for repeal.

"It will not be difficult for Congress in considering this important matter to separate these two questions and effectively to legislate regarding them, making the proper distinction between temporary causes which arose out of wartime emergencies and those like the constitutional amendment of prohibition which is now part of the fundamental law of the country. In all matters having to do with the personal habits and customs of large numbers of our people we must be certain that the established processes of legal change are followed. In no other way can the salutary object sought to be accomplished by great reforms of this character be made satisfactory and permanent."

Wilson's veto was overridden by Congress with mob gusto.

President Harding gave only lip loyalty to the prohibition cause. Not until there was put upon him the heavy and relentless pressure of the dry lobby could he be induced to make more than superficial effort to enforce a law which he regarded antipathetically.

Nor was the attitude of President Coolidge much more satisfactory to the passionate pilots of prohibition. Thus Dr. Clarence True Wilson who aspires to the throne lately left vacant through the death of Wayne B. Wheeler (who, Dr. Wilson asserts, "assumed to speak for all drys") has said of the Harding and Coolidge régimes:

"Everything that could be was botched during the administration of Mr. Harding—prohibition no worse than Forbes'

handling of the Veterans' Bureau and the soldiers' interests, or Fall's record with the oil lands of the Republic, or Daugherty and Rush Holland in the Justice Department, if that name could still be applied to it. . . .

"Then Calvin Coolidge came to bat. It is safe to say that he made few mistakes, for he made few moves. Once he ventured in a message to Congress to say: 'The American people very wisely outlawed the liquor traffic,' but a telegram went forth from the White House canceling that sentence after it had actually been set up in many newspapers and three or four of them let it leak through.

"There was no national leadership for the 'noble experiment' in the White House until Mr. Hoover was inaugurated; and no fair-minded man will ever say that prohibition has been thoroughly tried and failed till it is given a leadership and a vigorous attempt at enforcement."

President Hoover has answered the cry of those who believe that reform can no longer be delayed by giving the problem into the hands of a committee of leading citizens. His recently appointed National Commission on Law Observance and Enforcement is an independent agency of the government, headed by George W. Wickersham.

Mr. Wickersham's long career of distinguished public service is too well-known to require comment. It is unnecessary to remind the reader that he occupied the attorney generalship during the Taft administration. But, in the light of Mr. Wickersham's present activities, it is worth mentioning that he is chairman of the Committee on International Justice and Good Will of the Federal Council of Churches of Christ in America and a trustee of the Cathedral of St. John the Divine, New York.

As this book goes to press little has been heard of the work of the Commission. However, a letter from Chairman Wickersham addressed to Governor Franklin D. Roosevelt of New York and read by him before the annual conference of State Governors held at New London, Conn., aroused widespread comment because it contained the proposal that

the prohibition laws be modified. Mr. Wickersham wrote:

"One of the most serious subjects we must deal with is the enforcement of the Eighteenth Amendment. That measure, as written into the Constitution, confers upon the States concurrent jurisdiction with the national Government for the enforcement of this measure. Thus far the Federal Government alone has borne the brunt of the enforcement.

"It seems to me that the Governor's conference might well consider approaching the Federal Government on some particular feasible proposal to share this burden. If the National Government were to attend to preventing importation, manufacture and shipment in interstate commerce of intoxicants, the States undertaking the internal police regulations to prevent sale, saloons, speakeasies, etc., the national and State laws might be modified so as to become reasonably enforced, and one great source of demoralizing and pecuniarily profitable crime removed.

"Every State executive has sworn to support and defend the Constitution of the United States. The Eighteenth Amendment is a part of the Constitution, just as much as any other part. Surely it is pertinent to their conference to suggest and consider how they may best carry out their solemn undertaking."

The Wickersham note was generally regarded as a trial balloon intended to determine the sentiment of the country. From authoritative sources, however, came the assertion that Mr. Wickersham's view was entirely personal and that President Hoover had no knowledge of the matter until it was brought to his attention by newspaper accounts.

As for the governors, their differences of opinion were so pronounced that they ruled out any action on Mr. Wickersham's letter as a "controversial matter." One need not go far to seek plausible reasons for their disinclination to commit themselves. Primarily it would seem that they wished to avoid responsibility for the enforcement of an unenforceable law, for, privately, even the dry governors are unable to regard prohibition enforcement as practicable. And the

wet governors were not disposed to shoulder what they considered a Federal obligation. As Governor Ritchie of Maryland said to the Conference:

"It is time for the country to realize that the Eighteenth Amendment imposes no obligation on the State to enforce it."

It is inconceivable that any of the five States which have washed their hands of Volsteadism by repealing prohibitory legislation of its own would continue to support a governor who proposed to relieve the Federal government of local enforcement of a law which a majority of its population had repudiated.

Mr. Wickersham's proposal is indicative of an attitude distinctly less passive than that of President Coolidge who in his last annual message to Congress on December 4, 1928, had the following to say regarding prohibition:

"The country has duly adopted the Eighteenth Amendment. Those who object to it have the right to advocate its modification or repeal. Meantime, it is binding upon the National and State Governments and all our inhabitants. The Federal enforcement bureau is making every effort to prevent violations, especially through smuggling, manufacture, and transportation, and to prosecute generally all violations for which it can secure evidence. It is bound to continue this policy.

"Under the terms of the Constitution, however, the obligation is equally on the States to exercise the power which they have through the executive, legislative, judicial, and police branches of their governments in behalf of enforcement. The Federal Government is doing and will continue to do all it can in this direction and is entitled to the active cooperation of the States."

Chairman Wickersham's letter will not soon be forgotten, for it contains the admission that neither National nor State prohibition laws are "reasonably enforced." Such an admission cannot fail to aid the cause of temperance, for the rabid drys, willingly blind to the ignominious position in which the National and separate State governments have been placed

have for the last ten years insisted that although complete enforcement had not yet been obtained nevertheless the situation was very satisfactory.

One example of such assertions will suffice. Coincident with the Governors' conference the Rev. Christian Reisner, of New York, Methodist Episcopal pastor of one of the largest congregations in the United States, and a cleric of unquestioned sincerity, stated that although much mopping up remained to be done, conditions in New York City were "a million times better than before prohibition." Strange words, for Police Commissioner Whalen, as noted elsewhere, admits that New York City has 32,000 speakeasies. In 1916 Police Department statistics showed there were but 9,667 licensed places for the dispensation of alcoholic beverages, of which only two-thirds were saloons, the remainder being hotels, restaurants, clubs, etc.

Dr. Reisner is accustomed to calculating in millions, having recently raised $4,000,000 to finance Broadway Temple. A more illuminating explanatory note is that he was born in Atchison, Kansas, in 1872, moving on to New York in 1910.

CHAPTER XIX

LITTLE INTERVIEWS

IN the course of the Hearst $25,000 Temperance Prize Contest thousands of notables, office-holders, business men and professional men were asked for their opinions on the purposes of the contest and their views on prohibition. Although a considerable number have been quoted elsewhere in this volume, it is believed desirable to preserve in this form the views of many celebrities, including writers and publishers.

Miss Ida M. Tarbell, publicist, author of "History of the Standard Oil Company" and of many Lincoln biographies, said:

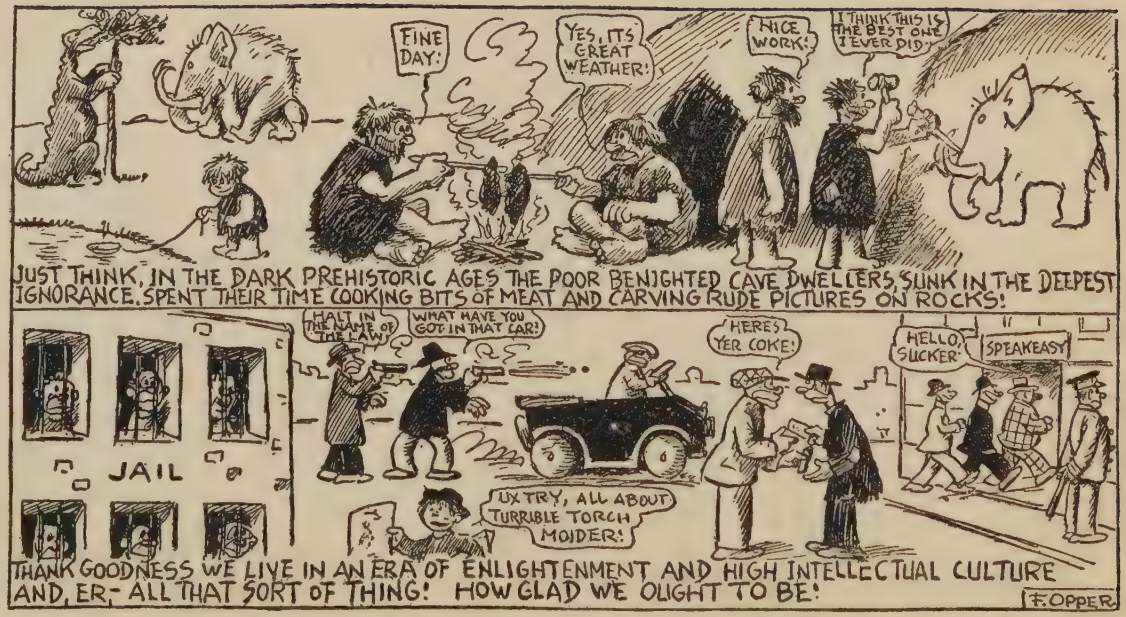
"In my opinion, prohibition never can be enforced until everyone is converted to it. The lawlessness growing out of the failure to enforce it is creating disrespect for law in general and is a great detriment. Many persons who never drank before now are going to extremes.

"There is a large minority that believes prohibition is contrary to the spirit of freedom. A serious contest, such as is being conducted in the Hearst papers, will set people to thinking as to whether there is a solution to this grave problem.

"If, through it, Mr. Hearst succeeds in finding a workable solution, he will have done a vast good and conferred a great and lasting benefit upon the country."

Irene Franklin, actress, New York:

"In my travels from coast to coast I have carefully noted the effects of what is pleasantly termed 'prohibition' in cities where I have appeared. Before prohibition arrived one did not see young folk arrive at the theatre with a flask and imbibe during a play.


FINE DAY:
YES, ITS GREAT WEATHER!
NICE WORK!
I THINK THIS IS THE BEST ONE I EVER DID!
JUST THINK, IN THE DARK PREHISTORIC AGES THE POOR BENIGHTED CAVE DWELLERS, SUNK IN THE DEEPEST IGNORANCE, SPENT THEIR TIME COOKING BITS OF MEAT AND CARVING RUDE PICTURES ON ROCKS!
JAIL
HALT IN THE NAME OF THE LAW!
WHAT HAVE YOU GOT IN THAT CAR?
HERE'S YER COKE!
HELLO, SLICKER!
SPEAKEASY
EXTRY, ALL ABOUT TURRIBLE TORCH MOIDER!
THANK GOODNESS WE LIVE IN AN ERA OF ENLIGHTENMENT AND HIGH INTELLECTUAL CULTURE AND, ER,- ALL THAT SORT OF THING! HOW GLAD WE OUGHT TO BE!
F. OPPER

WE ARE CIVILIZED NOW

"This would have been shocking before the Eighteenth Amendment was adopted. Now it seems quite the natural and 'smart' thing in most cities."

Inez Haynes Irwin, of New York, humanist, novelist, O. Henry Memorial Prize winner and author of treatises on sociological topics:

"All people who are in the least familiar with the workings of prohibition must feel that it is a dreary failure. They must welcome any effort to find a sane and honest substitute for the present chimerical and ineffectual prohibition system, which fails to give us temperance."

Miss M. Louise Gross, lecturer and chairman of the Women's Moderation Union:

"I am delighted with the Hearst prize contest for the best plan to restore temperance to the United States. Public sentiment is not in favor of present national prohibition, as proved by the results in the recent referendum in Massachusetts and in Montana, and all States where voters have had an opportunity to vote respecting repeal or modification. The great middle classes of America are looking for a leadership out of prohibition chaos."

Mrs. Marie Pernau Walsh, past president California Club, San Francisco:

"The public is not satisfied with prohibition, because it does not prohibit. It is a failure. There is more drinking now than before prohibition, and the drinking of today is especially pernicious in both its mental and physical effects.

"If a plan to substitute for prohibition a better measure could be worked out, I think it would be a wonderful thing."

Vina Delmar, Literary Guild author:

"Prohibition made America peevish. The law is flouted for the mere fun of flouting it. Most people have bought liquor at some time or other since July, 1918, and have derived surreptitious satisfaction from knowing where to get it."

Adolph S. Ochs, owner and publisher of the *New York Times:*

"Mr. Hearst has taken the first step in the right direction. Prohibition, as provided for by the Eighteenth Amendment, is anything but successful, and the remedy for the present situation and conditions is going to be borne of argument and discussion.

"That is apparently the theory that Mr. Hearst is going on, and his offer will probably bring constructive suggestion. The present attempt to bring about prohibition has made us a nation of law violators, and any time any man takes some step to remedy such a situation he wins my unqualified praise and support."

George Ade, writer and author, San Francisco:

"In my opinion, far from being a 'noble experiment.' prohibition has been nothing more than a ghastly failure. I am neither in politics nor in public life, but I do believe that the Eighteenth Amendment is a mistake."

Colonel Robert Ewing, Sr., vice-president of the Associated Press and publisher of the *New Orleans States:*

"Conditions today are deplorable, with boys and girls carrying hip flasks, and petting parties undermining the morals of our youth. The situation is terrible throughout the country, even although some ministers and prohibitionists seem unable to see the facts as they are. The Volstead act is absurd."

Clark Howell, publisher of the *Atlanta Constitution:*

"These laws must be modified to a workable and enforceable basis. We have seen that it is not possible to enforce them. The good sense of the American people should assert itself, and the laws should be put into shape where they can be enforced and command respect of the people."

Richard Washburn Child, San Francisco, former American Ambassador to Italy, noted writer and lecturer:

"Prohibition embarked us on a new excursion in government; broadly speaking, it took our Government beyond the machinery of law-making and put it into the new business of issuing commandments.

"That is a departure which none of the friends of America

contemplated—especially when it tends to centralize great power over the individual in the Federal Government, instead of leaving it to the community, where in American tradition it belongs."

Meredith Nicholson, distinguished Indiana novelist:

"I believe the Hearst Temperance Prize Contest is a good thing. Prohibition is one of the most serious questions with which this country has to deal at present. The more suggestions to make people think seriously upon this matter, the better it will be for our country."

Dr. Marcel Knecht, general manager of *Le Matin,* Paris:

"In foreign countries like Germany or France, where drinking is indulged in by nearly everyone, you will not find the horrible conditions prevalent here.

"My suggestion would be that you repeal your prohibition law and let the government supervise the manufacture and distribution of liquors. The people, in most cases, would be satisfied with wines and beer. Those requiring whiskey could purchase it from the Government at almost cost price. Bootleggers would be forced out of business because they could not meet the prices. There should be no saloons, however."

Will Irwin, veteran newspaperman, author, and lecturer, New York:

"Prohibition, I believe, is not the right way to go about correcting the country's liquor evils. Therefore I welcome Mr. Hearst's temperance contest for the discussion it is raising and the energy it is stirring toward the formation of a plan that will bring moderation in drinking. A moral law cannot be enforced unless there is that overwhelming opinion in favor of that moral behind it."

Montague Glass, famous author of *Potash and Perlmutter,* playwright, and short story writer:

"There is no drunkenness in Auxerre, where at the Hotel de l'Epée, they sell Chablis, 1911, which is the imprisoned sunshine of the Côte d'Or. In Dijon, where the wines of Burgundy are sold in their integrity, a drunken man has never been seen by the oldest inhabitant.

"In many large towns of France today, the breweries of Alsace-Lorraine are opening restaurants and taverns where one may obtain the creamy, foaming, soft and delicious beers of the newly reclaimed territory. I have no idea what percentage of alcohol causes those tankards to foam so attractively, but it is not enough to make anybody intoxicated. Day after day, I have sat in the Taverne Brasserie d'Alsace-Lorraine in Nice, and over a period of four years, I have yet to see a drunken man.

"But why not listen to the experience of the mayor of that Breton fishing port, who laughed when I told him that the sale of four percent lager beer was prohibited in America.

" 'You might just as well prosecute a man who sold a cup of coffee,' he declared, 'because it contains caffeine.' "

"Something has to be done to stop the present demoralization and the wholesale violations of the law, the widespread corruption of officials, Federal and State; the demoralization of young people, who, in dare-devil fashion, seek to express their protest; the supplying of purchasers with poisonous liquor. All point to the need of a change in the laws."

Professor H. H. Sheldon, noted head of the department of physics, New York University, with more than 1,200 students in his division:

"You can neither make angels nor prevent fermentation by law; apart from this the Eighteenth Amendment has everything in its favor. Of course, the prohibition laws are an expression of an intelligent, modern attitude which recognizes the fact that the individual must bend to that which is to the welfare of all. It is, to borrow words, 'a noble experiment.'

"No one connected with university work can deny that prohibition has raised the drinking student from the position of an outcast to a level among the smartest. It is the thing! Regardless of the motives behind the Volstead Act, it has popularized drinking.

"Its best friends should join with its worst enemies in finding a way to repeal this error and substitute in its stead some-

thing which will gain ground in a positive direction, even though it does not sweep alcohol away overnight, as the Volstead Act was supposed to have done."

Mather A. Abbott, Litt. D., former professor of Latin, Yale University, Headmaster, Lawrenceville (N. J.) School.

"If a prize of $25,000 will bring forth a workable and practical formula as a substitute for prohibition, no one would welcome it more than the headmasters of this country. I have such faith in America and the Americans that I do believe that this nation will get out of its present difficulty and will not suffer the crash which the crape-hangers are prophesying.

"What we need in the United States is a love of country so deep that men will not only be willing to die for their country, but also do the harder thing, which is to live for it. Now, as the man is only an overgrown boy, all this liquor trouble is caused by 'Thou shalt not.' Many of my acquaintances who never touched a drop of liquor in their lives before have, since prohibition, come to such a point in liquor imbibing that they now take too much, and it comes simply from 'Thou shalt not.'"

Archdeacon Joseph H. Dodshon, president of the Church Temperance Society and member of the Board of Judges, Hearst Temperance Contest:

"No amendment to the Constitution has ever been repealed, although some are obsolete through disuse or non-observance, and doubtless that is what will eventually happen to the Eighteenth.

"To my mind, this contest promoted by Mr. Hearst was the best thing that has happened—looking towards temperance by modification or substitution—since the terrible prohibition act was inflicted upon a liberty-loving and law-abiding people such as we were in the United States before the days of prohibition.

"In every section of our great country there are large numbers of people who favor some change back to common sense and normalcy. Even former ardent prohibitionists, ac-

cording to their own statements in the plans submitted, have had a change of heart and realize the awful mistake that was made.

"I believe that one result of Mr. Hearst's stand for individual and State rights through this national contest will be to start a movement for real temperance and to have a substitution for prohibition that the people will obey."

Archdeacon Dodshon's organization noted in one of its publications, he said, the following remarkable resolution adopted at a meeting of the Ministerial Association at Charles Town, West Virginia:

"Be it RESOLVED:

"1. That Christ, otherwise the one perfect man, made a mistake in furnishing wine for beverage purposes at a marriage-feast.

"2. That as a user of wine for beverage purposes Christ had Himself to blame for the reproach of being called a wine-bibber.

"3. That in setting His approval on the use of wine for beverage purposes, Christ, in the language of Dr. Cherrington, belonged to a lower civilization.

"4. That we recommend to all Christian bodies the substitution of unfermented grape juice for wine at communion service."

Franklin H. Heald, of Fontana, Calif., philosopher of the Society of Friends, is mellower than these West Virginian evangelical churchmen who criticized Christ:

"Lincoln was right eighty-seven years ago, at the very start of the fanatic movement. I also believe our new President will back such a movement, if we back him up with our petitions.

"Mr. Hoover and I were members of the same Society of Friends (Quakers) at West Branch, Iowa. In fact, we are cousins by marriage, and we both thoroughly understand that prohibition is a crime against good citizenship, as Mr. Hearst says, and as he said at the time prohibition became a theoretical law.

"Nearly all people who are informed understand that our good old Quaker 'uncles,' such as Benjamin Franklin, Thomas Jefferson, William Penn, Thomas Paine, Stephen Girard and others, helped found this nation in the 'spirit of friendship' regardless of religious hatreds and fanaticisms.

"Peace, temperance in all things, and quiet are the especial hobbies of good Quakers, and Mr. Hoover knows that all the attempts at prohibition in the history of the world have resulted in debauchery. The very best which can be attained is the temperance of our good old grandmothers and aunts in their homes."

Rupert Hughes, author, in Los Angeles:

"Prohibition is not only a failure but an infinite scandal. To get back to temperance is an ideal to be attained only by some ingenious plan."

Mrs. Mary Gallagher, honorary president Women's Democratic Club of Massachusetts; president and founder Suffolk County Mothers' Club; president Massachusetts Citizens' Club, of Boston:

"Congress should take active steps to remove any law which is not the expression of the people but against the wish of the people. The Volstead Act has been in effect long enough to prove its futility as a whole to the nation. It can never be enforced. Why fool ourselves any longer about it?

"Thanks to William Randolph Hearst, we may get some action on this matter before long. I now am ready and willing to go on record as disfavoring prohibition and declaring that it is doing no good."

Sumner Blossom, editor of *Popular Science Monthly:*

"Even if the contest should fail to bring forth a practical plan for temperance, it will have been of great value, because it will have stimulated public interest in the search for a concrete plan. And once that search is started, I believe the American people will eventually evolve the correct solution in the form of an honest temperance programme—a programme that will work because it will have popular approval."

J. J. Lowman, writer and lecturer, Los Angeles:

"While passing through Oklahoma, my wife and I were told by a Pullman porter to stop a game of casino. In New Orleans, I tried to buy tobacco on Sunday during Mardi Gras. Many did buy it, but they made the purchase surreptitiously. Newspapers were not allowed to be sold on Sunday in many cities, although they were made up and printed for Monday morning on Sunday afternoon and evening.

"Unfortunately, the economic struggle has been too fierce to permit our business leaders to enter the fight. Mr. Hearst's Temperance Prize Contest will do a great deal of good, and will go a long way toward showing the difference between laws advocated by fanatics and idle people, and plans from the minds of the intellectual, busy men and women of this country."

Charles B. Prichard, lawyer and former Director of Public Safety of Pittsburgh:

"Certainly prohibition has been far from successful, and I doubt if it is possible under existing laws and methods of enforcement to stop the manufacture and sale of liquor and prevent drunkenness."

William H. King, United States Senator from Utah:

"I have read with interest the statement made by William Randolph Hearst, in which he discusses Mr. Hoover's recent address on law enforcement. He presents in a striking manner important questions and problems confronting the American people.

"Whether one agrees with Mr. Hearst or not, his presentation calls for serious consideration, particularly by lawmakers and those charged with legislative and executive responsibilities. It is well known that laws are often enacted as a result of hysteria and manufactured propaganda, and by subtle and ceaseless efforts upon the part of active minorities.

"Mr. Hoover charges that the United States is the most lawless country in the world. He might have added that it enacts more laws than any country in the world."

Cornelius F. Burns, Mayor of Troy, N. Y.:

"I am opposed to prohibition, as it now exists, yet I am heartily in favor of temperance.

"Under the present scheme of things, prohibition is creating a class of newly rich who are tearing down law and order. The law is placing in the hands of the lawless ample financial resources, a weapon which enables them to enlarge the scope of their criminal actions."

Clarence S. Darrow, eminent Chicago lawyer:

"The Volstead Act does not even conform to the Eighteenth Amendment, which simply authorizes Congress to do what they could do without the law—to forbid the manufacture and sale of intoxicating liquors as beverages.

"On top of that, Congress passes a law defining a beverage containing one-half of one percent of alcohol by volume as intoxicating. Everyone knows that is absurd. You might as well declare rainwater intoxicating as one-half of one percent. That means a teaspoon of alcohol to a quart of beverage. Why, you would have to have a stomach like a railway water tank to drink enough to get intoxicated!

"I am doubtful if any man of ability through the ages has ever been a prohibitionist. The thinkers, writers and poets and great religious teachers, including Jesus, have always thought it perfectly right to drink intoxicating liquors.

"A certain amount of intoxication is probably necessary to any high form of activity or art. Imagine any man writing a poem on ice water! It has never been done.

"Whether prohibition is got rid of as we once got rid of witchcraft, different forms of religious persecution (Protestant or Catholic) and heresy, or whether our people have the decency to disregard or to repeal the Volstead Act, I cannot tell. But we will get rid of it in one or all of these ways.

"The forces back of prohibition have been back of every intolerant law to compel people to think, act and believe according to their own way of thinking, acting and believing. These forces, surviving from the past, have no place in this day and age."

Charles Cook Paulding, vice-president in charge of legal matters of the New York Central Lines:

"Some means should be found for liberalizing the law to make it more acceptable to the people at large, and still keep within the provisions of the Constitution.

"A disrespect for law has been engendered, not only for the prohibition law but for other laws, and this disrespect, extending to actual violations of other laws has extended to those who are engaged in the enforcement of the prohibition laws.

"The appalling total of deaths from violence recently published by a government official speaks for itself. The calendars of the Federal courts have been crowded with prohibition cases, but, judging from the results of cases recently tried before juries, a deep resentment is felt at the methods used to enforce the law and to obtain what is called 'evidence.'

"That taxpayers' money should be squandered by prohibition agents in the manner in which it has been testified, seems to be shocking to the conscience of the average juryman."

Harold A. Content, lawyer, former Assistant United States Attorney in New York:

"As a citizen, I feel that prohibition is the worst calamity that ever befell this country; it has made us a nation of lawbreakers and hypocrites."

Matthew Woll, vice-president of the American Federation of Labor:

"All the plans in the world will not make the Eighteenth Amendment a success, whereas, it is possible for a sane and sober modification plan to be worked out and put into effect. For this reason I think that Mr. Hearst is pointing his guns the right way by offering a prize worthy of such a plan.

"The sooner the blight of prohibition is wiped out, the sooner will all the internal troubles of the United States abate. To my mind, the majority of the citizens of this country have come to realize that such a wholly ridiculous law as prohibition is a disgrace to our foundations of liberty.

"Nowhere in the world has prohibition been a success, and it is only the closed type of mind that will not concede this failure."

Albert F. Day, Chairman of the Legislative Committee of the New York Building Trades Council, representing 150,000 workers:

"I favor the introduction of light wines and beers under the supervision of the United States Government as a means of modifying the Volstead Act. This would provide revenue to permit a general reduction of income taxes. By this means, Congress can kill two birds with one stone.

"Our entire body of building trades workers in the metropolitan area strongly favor modification of the Volstead Act."

John Sullivan, president of the New York State Federation of Labor:

"The entire State Labor Federation, representing more than 900,000 trade unionists, favors a solution of the prohibition question by introducing genuine light wines and beers as an antidote for poison liquors distributed through bootleg channels."

Joseph J. Tynan, vice-president of the Bethlehem Shipbuilding Corporation, San Francisco:

"When a nation of 120,000,000 people has to see daily evidence that a law intended for its good is resulting in a condition of deplorable failure, it is certain that that nation is going to demand a remedy."

Benjamin F. Affleck, president of the Universal Portland Cement Company, and president of the Union League Club, Chicago:

"The idea that an act committed in this country is criminal, which, committed in nearly every other civilized country in the world, is not, seems most inconsistent."

Edward Laemmle, Universal Motion picture director, Los Angeles:

"I have seen drinking in all parts of the world—in Paris, London, Germany, Shanghai, Manila, even far into the in-

terior of British Borneo—and in none of these places have I seen so much common drunkenness among white people as I have seen since prohibition struck America.

"It is an old story now to tell of how people want to drink it all when a bottle appears. Countless incidents of the last few years have proved that our young people have suffered and not benefited by this drastic law."

Pierre S. du Pont, chairman of the board of E. I. du Pont de Nemours & Co., Wilmington, Del.:

"Prohibition has failed in every Christian civilized community in which it has been tried, including the several States of the Union. It has failed in the United States as a whole.

"If in the end the custom of drinking intoxicants should be eliminated in our country, it will be because of the willingness and desire of our people for such elimination—not because of existing prohibitory laws that have tended to magnify the evils of drink instead of curing them."

Willis H. Booth, vice-president of the Guaranty Trust Company, New York:

"Prohibition, it is obvious, has failed to prohibit. Furthermore, it has brought with it evils which are too well known to need enumeration."

Charles C. Younggreen, President of the International Advertising Association:

"The worthwhile people of this country will welcome a law within which it is humanly possible to abide. A law providing for the proper control of light wines and beer, I feel, will give the people what they wish for."

Brigadier-General Abel Davis, Vice-President of the Chicago Title & Trust Company:

"To my mind, the root of the difficulty is that the law as it now stands seeks to prohibit rather than regulate. It seeks to interfere with personal habit or inclination by legislation. And the result has been evidence of much more drinking since prohibition laws went into effect than before."

David Wark Griffith, noted film director, Los Angeles:

"Our methods of regulation are bad. Let's talk about it and find a sensible solution; let us know where we stand on the matter.

"We won't progress by supporting an unenforceable law just because it is written in the Constitution.

"The Hearst newspapers as far as I can remember have always been the foe of the saloon. Hal Coffman's very forcible cartoons of slaying the Demon Rum in the early days were perhaps the greatest means ever attempted of bringing the evils of whiskey to the public's mind."

William Wrigley, well-known manufacturer, of Chicago:

"It seems that a vast majority are utterly ignoring the law. When Americans begin thinking and acting in that manner toward the prohibition law, or any law, there must be something radically wrong with it.

"One of the main reasons for the present attitude of the people is, I believe, the fact that it is not a popular law. In addition, I might affirm what many others have said before me—morals cannot be legislated."

Roger D. Lapham, President of the American-Hawaiian Steamship Company:

"The prohibition law breeds contempt for all law. There may be economic advantages in the present law; but such advantage does not offset the contempt for law in general which is growing throughout the country, as a result of prohibition legislation, and the wholesale violation such legislation has invited."

William C. De Mille, noted Metro-Goldwyn-Mayer director and playwright, Los Angeles:

"No law can really be enforced which has the active opposition of forty to fifty per cent of the people and is disregarded by a large portion of the remainder."

Charles J. Nasmyth, of Nasmyth & Brockelbank, No. 51 Chambers Street, New York, said:

"It is not to be forgotten that though many eminent lawyers and constitutional authorities have asserted the unconstitutionality of the Eighteenth Amendment and the Vol-

stead Enforcement Law, the fact remains that all tnese undoubtedly worthy opinions don't amount to a row of pins unless the United States Supreme Court can be converted to their way of thinking; and thus far this high tribunal has not displayed any sign of readily yielding to this solution of the problem.

"The other day some enthusiast advocated the enactment of a law to deport all foreigners found taking a drink or possessing alcoholic liquor, so as to stop the debasing of unsuspecting American citizens by having their noses held while defiling liquor is poured down their reluctant throats. Canada has also been accused by these unbridled partisans of being the chief source of bootleg liquor sold in the United States, and yet statistics apparently show that Canada provides only about five percent of the liquor consumed; which would seem to be a conservative estimate when allowance is made for other foreign sources of supplies and the hundreds of thousands of native stills, wine presses, and other processes which obtain.

"The opinion of any person is not worth listening to whose mind is prejudiced and incapable of taking a sane and impartial view of his subject. For instance, what better illustration of superficiality of reasoning could be afforded than the absurd statement of Henry Ford made to President Hoover that absolute enforcement of prohibition is indispensable before aviation can be made safe from drunken pilots?

"It would be interesting to hear whether Colonel Lindbergh endorses this reckless assertion. On what theory, and on what authority does Mr. Ford justify his imputation that this is a nation of drunkards incapable of controlling their appetites for strong drink? It is a far too common failing of men upon whom fortune has bountifully smiled to imagine that their opinions are more profound and sound than is the case with those less abundantly endowed.

"If these fanatical prohibitionists possess any vestige of human intelligence they surely must have some appreciation of what constitutes common honesty in the promulgation of

opinion; therefore, unless they are totally blinded by their own prejudice and choked by their own venom, why would they not discard cant and hypocrisy, drop their shallow and untenable pretenses, and adopt the invulnerable syllogisms of their opponents, who are every whit as sincere as themselves in their desire that universal temperance shall prevail?"

M. H. Cox, president of the Hollywood Industrial Company, Hollywood, Cal.:

"Another thing to prove the fallacy of prohibition. Five years ago, I was entertained in the home of Sir Thomas Lipton in London. There I met Lord Thomas Dewar, famous manufacturer of whiskey. He told me that since America passed its prohibition law, his business had increased by $3,375,000 yearly. Most of the liquor went for foreign consumption, he said.

"When I was in the restaurant business in New York, I was asked to buy fifty barrels of whiskey. I would not buy it. I do know that had I done so the people who sold it to me would have raided my place, taken the liquor and sold it again. That is just another example of disrespect for law."

George W. Lindsay, of Brooklyn, Representative in Congress from New York:

"Americans are a sober, liberty-loving people. Prohibition has denied them liberty and encouraged drunkenness and drug addiction."

Fred A. Britten, Representative in Congress from Illinois:

"Most of the crimes in our modern big cities are the direct result of prohibition. The beer runner, the bootlegger and the racketeer are products of Volsteadism."

George W. Holtz, chief judge of the City Courts, Buffalo, N. Y.:

"As chief judge of the Buffalo City Courts, I have seen hundreds of unfortunates coming to the bar of justice, their way paved with poisonous liquor. The stuff that is being drunk now is simply rotten—depriving a man not only of

his reason but of his physical and moral powers as well. Mr. Hearst's proposal to find a remedy for existing conditions is well timed."

William Armstrong, Mayor of Racine, Wis.:

"To remedy the situation will remove from the country one of the greatest demoralizing forces the world has ever known. Drunkenness is more depraving and common now than in the worst days of decaying Rome."

John J. Gorman, eminent lawyer of Chicago, and Representative in Congress from Illinois:

"Prohibition is a legislative strait-jacket. Temperance is a natural virtue. The best minds in the country will concentrate upon the attainment of temperance. It will most surely be achieved. The Hearst contest is pointed in the correct direction."

Frank X. Schwab, Mayor of Buffalo:

"Bring back 2.75 per cent beer, 7 or 8 per cent wines; put them in grocery stores—or Government stores or wherever else they are desired; sell liquors legitimately only in Government stores and under direct supervision of competent enforcement officers; put teeth in the enforcement laws—and I believe the nation can solve the problem to everyone's satisfaction."

Loring M. Black, Representative in Congress from New York:

"Prohibition might well be called an anti-grain consumption law. The most serious effect has been upon corn and barley prices. The rye farmer with land too poor for other grains, has conclusive evidence of the harm in the loss of his domestic market.

"The domestic brewing and distilling demand for corn has been reduced approximately 33,000,000 bushels a year, while the exports are only 23,000,000 bushels. In 1917 the use of corn by the brewing and distilling industries amounted to 49,324,000 bushels.

"The domestic market for barley has been reduced 65,000,000 bushels a year. It has come into the market to com-

pete with corn, and had a depressing effect upon all grain prices."

Charles H. Kline, Mayor of Pittsburgh:

"A situation has been created that calls for sane and sensible thought. The views of the extreme wets and the extreme drys should be regarded as being biased. The final decision should rest with what might be called the 'moderates,' who in the final analysis always prevail in number when it comes to the settlement of issues vital to the republic."

James W. Wadsworth, former United States Senator from New York:

"It is a spectacle of wholesale violation, indulged in by people in every walk of life. Corruption is widespread and winked at. Hypocrisy is the prevailing habit of mind, and the Constitution is sinking into disrespect."

James Hamilton Lewis, Chicago lawyer and formerly United States Senator from Illinois:

"The present administration by the national Government of our prohibition laws has made a barroom of the parlors of the rich, and vice dens of street taxicabs. All this is destroying the youth of boys and girls, and breeding contempt for law and defiance of official authority of officers and courts."

Peter P. Walsh, Superintendent of Police, Department of Public Safety, Pittsburgh:

"In my opinion as a police official, prohibition, as it exists today, is not a success, and I doubt if it could be enforced, under the present laws, except at a prohibitive cost to the Government.

"I wish to congratulate Mr. Hearst upon the public spirit shown in offering this prize, as it will bring more vividly to the minds of our citizens what I think is one of the greatest problems in our country—the prohibition question."

Victor Berger, Congressional Representative from Wisconsin:

"There are many ways in which the prohibition issue can be kept before the public. I think agitation and education are

necessary. If the Hearst prize contest means that public attention is to be brought upon the evils of prohibition it will meet with my approval."

Maurice Block, minority leader of the New York Assembly:

"It is generally admitted that the Durant enforcement plan contest was valueless outside of supplying Major Mills with $25,000. The Volstead Act, in its present form, cannot be fully enforced, because public sentiment is not behind it.

"Mr. Hearst recognizes that fact and believes the way to real reform is along sensible and tolerant lines rather than by severity which will accomplish nothing. His offer of a $25,000 prize is a step in the right direction and he should be commended for taking it."

James J. Byrne, Borough President of Brooklyn:

"I am of the opinion the average citizen of the United States is convinced that this law cannot be enforced for the reason that the people do not want it enforced."

James D. Phelan, formerly United States Senator from California:

"I trust some Moses will answer Mr. Hearst's call and lead the country out of the wilderness of crime and disaster, a condition created by misled morons and cowardly politicians.

"Our nation is ill. And, strange to say, its illness is a result of a misguided attempt to cure it of an earlier malady. Despite the talk of politicians, the lawmakers prefer to kill rather than to cure the sick, a practice worthy of some benighted heathen nation; not of the United States.

"One solution would be to relegate the question to the several States, so the law will reflect the sentiment of the community and, therefore, be enforceable. Another solution is Federal supervision of manufacture and sale. All are agreed that the present law has broken down and any modification must, in my opinion, differentiate between use and abuse."

Frank J. Ryan, Secretary of State, Topeka, Kan.:

"I was born in Kansas in 1870, and after twenty years' experience in public office, I believe I know Kansas, the cradle of prohibition, and her people as well as any man living in her borders.

"Prohibition has been the law of my State since 1882 and the law of the nation for approximately ten years, and the Federal Government today is in the same position, with reference to enforcement, that Kansas has been in for nearly fifty years.

"If after all this futile effort at law enforcement, according to what I read in the papers (I do not drink) they still sell liquor in Kansas, it would naturally follow, with the Government using methods of fifty years ago, we will still be selling intoxicants in the United States in 1980.

"Based on a more or less active contact of nearly fifty years with the problems of prohibition, I expect to enter a plan in the prize contest which will at least open up some interesting facts for consideration."

William Cabell Bruce, Former United States Senator from Maryland:

"The constructive features of the Hearst Temperance Contest, the proposals for the substitution of a rational temperance law, will be of the greatest value to Congress.

"It will not be long before we will be confronted with concrete legislative proposals to do away with the present intolerable conditions. I am of opinion that substitute legislation will have to be advanced as a corollary for the elimination of the present statutes, or their modification. I think some expert and well-drawn proposals should be brought forth in the competition undertaken by Mr. Hearst."

Julius Miller, President of the Borough of Manhattan, New York:

"It is certainly time we substituted for prohibition a system of moderation which can be enforced. A system of legal sale, under Government regulation, of the milder liquors, such as wines and beers, would have many advantages over the present conditions.

"Therefore, I think any idea such as Mr. Hearst's Temperance Prize Contest should be welcomed as a means of showing the way to a system of thoughtful moderation."

John F. Fitzgerald, member of Congress from Massachusetts and ex-Mayor of Boston:

"All sensible men who know what is going on in this country realize the precarious liquor situation in America today. It is significant that every country which has tried prohibition has abandoned it."

William John Cooper, California Superintendent of Public Instruction, and newly appointed United States Commissioner of Education:

"It is obvious that either the attitude of large numbers of people must change, or that our present laws regarding liquor should be modified.

"Either alternative means a campaign of education. Insofar as Mr. Hearst's plan will lead to careful investigation and intelligent discussion, having in view the welfare of our republic rather than the pocketbooks of some, or the anarchistic impulses of others, it is a good thing and will be supported by educators."

Daniel T. M'Kelvey, president of the Pennsylvania Association of Chiefs of Police, Hazelton, Pa.:

"The members of our association agree that, since the beginning of prohibition, crime has greatly increased. When I say crime, I do not refer to petty offences. I refer to heinous crimes that endanger the lives and property of ordinary citizens."

Grover Whalen, Police Commissioner of New York:

"Crime is on the increase for several reasons, no reason being more prominent here than prohibition. We must admit the facts. The speakeasy problem is growing. We have 32,000 in the city."

Mrs. George Orvis, of Manchester, Vermont, formerly a member of the Republican National Committee:

"Women from eighteen States personally, and speaking for twenty-six States, met at Chicago to try to reach a sane

solution of the problem which is undermining the principles on which our Constitution and Government were founded. Those women will continue their crusade until the issue is settled."

APPENDIX

Designed primarily as a war time measure for the conservation of grain, the Eighteenth Amendment was submitted by Congress to the States for ratification on December 18, 1917. The first State to pass favorably on it was Mississippi, which State approved on January 8, 1918. Nebraska, the necessary 36th state, approved on January 16, 1919. New Jersey, the last State to accept, did so on March 9, 1922. Rhode Island and Connecticut refused to ratify the Amendment, while New York, Maryland, Montana, Wisconsin and Nevada have no State enforcement laws.

The Eighteenth Amendment reads:

1—After one year from the ratification of this article the manufacture, sale or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all territories subject to the jurisdiction thereof for beverage purposes is hereby prohibited.

2—The Congress and the several States shall have concurrent power to enforce this article by appropriate legislation.

3—This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the Legislatures of the several States, as provided in the Constitution, within seven years from the date of the submission hereof to the States by the Congress.

Contrary to the belief of many laymen, the Eighteenth Amendment does not provide for the enforcement of prohibition and attaches no punishment for violators. For this reason the Volstead Act was drawn and it is against this specific act that most criticism is aimed.

The Volstead Act defines liquor as alcohol, rum, whiskey, brandy, gin, wine, beer, porter, ale or any other beverage containing one half of one percent or more alcohol. It prohibits the manufacture, sale, transportation, importation, delivery, furnish-

ing or possessing any intoxicating liquor, except under certain provisions.

Under regulations the law allows denatured alcohol and denatured rum; medicinal preparations made according to regular formulas; patent medicine, toilet articles, flavoring extracts, syrups and antiseptics, provided, however, they are unfit for beverage purposes. The law permits the manufacture of high proof beer, but the product must be dealcoholized before reaching the consumer.

Sacramental wine and liquor for non-beverage purposes may be manufactured under certain regulations. Manufacturers of certain products may purchase and keep liquor for such purposes but may not use or sell it except as ingredients of such articles as are manufactured. Only sufficient alcohol may be used in articles for solution of certain elements or for the preservation of the article.

Hospitals are permitted a limited quantity of liquor for medicinal purposes and physicians may prescribe liquor for the treatment of patients, the amount being limited to one pint of spirits or one quart of wine in ten days to one patient. Druggists handling medicinal liquor must record all sales of liquor and their records must be available to the enforcement officers.

It is unlawful to ship liquor without notifying the carrier of the contents of the package. It is not lawful to advertise liquor, its manufacture or where obtainable, except in trade journals by authorized manufacturers, wholesale druggists, and in foreign newspapers mailed to this country. It is unlawful to solicit orders for liquor or give any information where liquor is obtainable. It is unlawful to advertise any utensil or recipe for the manufacture of liquor.

Anyone injured by an intoxicated person has the right of action against the one who sold the liquor unlawfully to the intoxicated person.

One may possess liquor in one's dwelling for the personal use of the family or bona fide guests if the liquor was obtained lawfully prior to the Eighteenth Amendment.

A liberal interpretation has been placed on the home manufacture of wine and cider, the Prohibition Bureau ruling that the beverage must not be intoxicating in fact, without reference to the exact alcoholic content.

All fruit juices, except cider, having an alcoholic content above one per cent, are subject to revenue tax.

After nine years of unsuccessful enforcement, the Congressional drys demanded more drastic punishment for those convicted of liquor violations, believing fear of heavy punishment would stop the bootlegger. As a result, the Jones law was passed in the Senate 65 to 18 and the House 283 to 90, and was signed by President Coolidge on March 2, 1929.

This "five-and-ten" law is considered by many to be one of the most drastic and unreasonable pieces of legislation enacted in the history of the country.

The text of the Jones Law follows:

> Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled that wherever a penalty or penalties are prescribed in a criminal prosecution by the National Prohibition Act, as amended and supplemented, for the illegal manufacture, sale, transportation, importation or exportation of intoxicating liquor, as defined by Section 1, Title 2, of the National Prohibition Act, the penalty imposed for such offense shall be a fine not to exceed $10,000 or imprisonment not to exceed five years, or both, providing that it is the intent of Congress that the Court, in imposing sentence hereunder, should discriminate between the casual or slight violations and habitual sales of intoxicating liquor, or attempts to commercialize violations of the law. Section 2—This Act shall not repeal nor eliminate any minimum penalty for the first or any subsequent offense now provided by said National Prohibition Act.

The passage of the bill brought a wave of protest from the press and members of the bar. A group of New York attorneys organized the Volunteer Lawyers Committee to defend, gratis, any persons prosecuted under the Jones Law. This organization is expanding and is expected to soon have branches in all the leading cities in the country.

Since the Jones Law has been in effect, judges admit that a jury will rarely bring in a conviction, since they feel the law is too drastic and it is acting as a boomerang to prohibition enforcement.

Prior to the Eighteenth Amendment, prohibition was gradually being adopted by States of their own volition; only 18 States in the Union being without statewide dry laws. However, since the evils of national prohibition have become so apparent, States that before the Eighteenth Amendment were bone dry are now showing decided leanings toward dampness.

State referenda are showing marked cuts in the majority for prohibition, the sentiment swinging in favor of a more liberal policy regarding the Eighteenth Amendment and the Volstead Act. Bitter contests have been staged in those States which have, since the adoption of the Amendment, put the liquor question directly before the people and allowed them to answer by the ballot.

Following are the results of State referenda from November, 1926, to September, 1929:

New York, November 2, 1926.

Question: Should the Congress of the United States modify the federal act to enforce the Eighteenth Amendment so that the same shall not prohibit the manufacture, sale, transportation, importation or exportation of beverages which are not in fact intoxicating as determined in accordance with the laws of the respective States?

Result: For..... 1,763,070—74.8%
Against..... 598,484—25.2%

Illinois, November 2, 1926.

Question: Should the Congress of the United States modify the federal act to enforce the Eighteenth Amendment to the Constitution of the United States so that same shall not prohibit the manufacture, sale, transportation or importation of beverages which are not intoxicating as determined in accordance with the laws of the respective States?

Result: For..... 840,631—60.2%
Against..... 556,592—39.8%

Wisconsin, November 2, 1926.

Question: Shall the Congress of the United States amend the Volstead Act so as to authorize the manufacture and sale of beer, for beverage purposes, of an alcoholic percentage of 2.75% by weight, under government supervision but with the provision that no beverage so purchased may be drunk on the premises where obtained?

Result: For..... 349,443—66.3%
Against..... 177,602—33.7%

Missouri, November 2, 1926.

Question: The repal of all State liquor laws.

Result: For..... 294,388—34.1%
Against..... 560,931—65.9%

Colorado, November 2, 1926.

Question: An initiative bill to amend the State constitution by providing that the legislature may provide for the manufacture, importation and sale of intoxicating liquor by and through the state for personal or domestic use and medicinal and sacramental purposes; provided, further, that this amendment shall not be operative in so far and as long as it conflicts with the laws of the United States of America.

Result: For..... 107,749—41.1%
Against..... 154,672—58.9%

Montana, November 2, 1926.

Question: The repeal of the State Enforcement Act and all other State liquor laws except that prohibiting the sale to minors.

Result: For..... 83,982—53.3%
Against..... 72,982—46.7%

Nevada, November 2, 1926.

Question: A resolution reciting that experience has demonstrated that the attempt to abolish recognized abuses

of the liquor traffic by the radical means of constitutional prohibition has generally failed of its purpose, and making application to Congress of the United States to call a convention for proposing an amendment to the Constitution of the United States.

Result: For..... 18,131—77.2%
Against..... 5,352—22.8%

California, November 2, 1926.

Question: The repeal of the State Enforcement (Wright) Act.

Result: For..... 502,258—47%
Against..... 565,875—53%

Ohio, November 8, 1927.

Question: The Marshall Bill, which was passed by the State Legislature in April, 1927. (This bill was sponsored by the Anti-Saloon League and provided Justices of the Peace with a percentage of the fines collected from dry law violators.)

Result: For..... 438,458—32.4%
Against..... 916,016—67.7%

North Dakota, June 27, 1928.

Question: The repeal of the prohibition clause in the State Constitution.

Result: For..... 96,837—48.3%
Against..... 103,696—51.7%

Montana, November 6, 1928.

Question: A law to enact all the provisions of the Volstead Act relating to pleading, evidence, definitions, prohibitions and penalties, as the law of the State of Montana, to provide for the enforcement thereof and defining the term "Volstead Act," and to comply with section 2 of the Eighteenth Amendment to the Constitution of the United States which provides

that Congress and the several States shall have concurrent power to enforce said Amendment by appropriate legislation.

Result: For..... 68,431—45.9%
Against..... 80,619—54.1%

Massachusetts, November 6, 1928.

Question: Shall the Senator from this district be instructed to vote for a resolution requesting Congress to take action for the repeal of the Eighteenth Amendment to the Constitution of the United States, known as the Prohibition Amendment?

Result: For..... 697,755—62.7%
Against..... 414,512—37.3%

Wisconsin, April 2, 1929.

Question: Shall the State Prohibition Enforcement Act, generally known as the Severson Act, be repealed?

Result: For..... 350,337—64%
Against..... 196,402—36%

The Bill of Rights is the term popularly applied to ten of the amendments to the Constitution which were adopted by the First Congress in September 25, 1789 and submitted to the States.

Because they bear so closely upon the prohibition problem certain extracts from the Bill of Rights are here appended:

(Article I)

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech or of the press; or the right of the people peaceably to assemble and to petition the Government for a redress of grievances."

(Article IV)

"The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and

seizures, shall not be violated, and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

(Article V)

"No person shall be held to answer for a capital or other infamous crime unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the militia, when in actual service, in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation."

(Article VIII)

"Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted."

(Article X)

"The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

(Article XV)

"1. The right of the citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

"2. The Congress shall have power to enforce the provisions of this article by appropriate legislation."

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